

***United States Court of Appeals
for the
District of Columbia Circuit***



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THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK

Court of Appeals, District of Columbia

APRIL TERM, 1905.

No. 1518.

337

THE NATIONAL COUNCIL OF THE JUNIOR ORDER OF
UNITED AMERICAN MECHANICS OF THE UNITED
STATES OF NORTH AMERICA, A BODY CORPORATE,
APPELLANT,

v.s.

THE STATE COUNCIL OF THE DISTRICT OF COLUMBIA,
JUNIOR ORDER OF UNITED AMERICAN MECHANICS,
A BODY CORPORATE; JOHN E. CRAMPTON, CLIFTON
M. BIGELOW, GEORGE KEITHLEY, WILLIAM L. BOY-
DEN, AND DWIGHT M. WEEKS.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED FEBRUARY 1905

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OF THE CITY OF NEW YORK

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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APPELLANT,

vs.

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A BODY CORPORATE; JOHN E. CRAMPTON, CLIFTON
M. BIGELOW, GEORGE KEITHLEY, WILLIAM L. BOY-
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In the Court of Appeals of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR ORDER OF United American Mechanics of the United States of North America, a Body Corporate, Appellant,	}	No. 1518.
<i>vs.</i>		
THE STATE COUNCIL OF THE DISTRICT OF COLUMBIA, Junior Order of United American Mechanics, a Body Corporate, <i>et al.</i>	}	

a Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America, a Body Corporate, Complainant,	}	No. 21890. In Equity.
<i>vs.</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United Amer- ican Mechanics, a Body Corporate; John E. Crampton, Clifton M. Bigelow, George Keithley, William L. Boyden, and Dwight M. Weeks, Defendants.	}	

UNITED STATES OF AMERICA, } *ss* :
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Original Bill.*

Filed November 21, 1900. John R. Young, Clerk.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE
Junior Order of United American
Mechanics of the United States of
North America, a Body Corporate,

versus

1, THE STATE COUNCIL OF THE DIS-
trict of Columbia, Junior Order of
United American Mechanics, a
Body Corporate; 2, John E. Cramp-
ton; 3, Clifton M. Bigelow; 4, George
Keithley; 5, William L. Boyden;
6, Dwight M. Weeks, Defendants.)

No. 21890. In Equity 49.

To the supreme court of the District of Columbia, holding a special term as a court of equity, the complainant respectfully shows:—

1. That it is a body corporate organized under the laws of the State of Pennsylvania and is the supreme head of the order known as the Junior Order of United American Mechanics, and brings this suit in its own right. That it has no corporate stock.

2. That the defendant No. 1 is a body corporate organized under the laws of the United States relating to the District of Columbia, and that it purports and assumes to be the head of the aforesaid order in the District of Columbia, and is sued in its own right; that the other defendants are all citizens of the United States and residents of the District of Columbia, and are members of said State council (defendant No. 1); that of said defendants the first three named, to wit: defendants Nos. 2, 3, and 4, com-
prise the executive board of said defendant State Council and

2 are sued as such; that defendant No. 5 holds the office of secretary to said State council and has or assumes the title of State council secretary, and is sued in his official capacity, and defendant No. 6 is the treasurer of said defendant State council and has or assumes the title of State council treasurer and is sued in his official capacity. Said defendants Nos. 2, 3, 4, 5 and 6 were members and officers, as aforesaid, of the State council of the District of Columbia Junior Order of United American Mechanics prior to and up to its incorporation, (except as to defendant No. 3 who was then a member but not an officer) and represented said State council then unincorporated, and are therefore sued herein as representing said State council as unincorporated as well as officers of said incorporated body as aforesaid, the said State council having been an

unincorporated society or organization during the time within which the several transactions hereinafter referred to took place, except those which occurred subsequent to January 15, 1900, which was the day on which the said State council was incorporated. That the persons who composed the membership of said State council prior to and up to the time of its incorporation are too numerous to be named and be made parties defendant hereto and are sufficiently represented both officially and in fact by said defendants Nos. 2, 3, 4, 5 and 6. That defendant No. 2 claims to be the State councilor, defendant No. 3 claims to be the State vice councilor and defendant No. 4 claims to be the junior past State councilor of said order in the District of Columbia, and are acting as such respectively, but without lawful authority. The trustees of said corporation are unknown to complainant.

3. That the order styled the Junior Order of United American Mechanics is a secret beneficial, benevolent and patriotic order or association having (at the date of last annual report, June 1900) in the neighborhood of one hundred and fifty thousand members in good standing, all of whom are white male citizens of the United States, born within the United States or under the protection of its flag, none others being eligible to membership. That said members reside respectively in and said order is organized and working in a majority of the States and Territories of the Union and the District of Columbia. The said order is constituted as follows,

3 namely: The supreme head of the order is the complainant National Council, which has sole authority by virtue of its written constitution and the laws of the order to grant, issue and revoke charters or warrants to State councils and to subordinate councils not under the jurisdiction of a State council.

Second. The several so-called State councils, of which the defendant council, prior to the revocation of its charter as hereinafter set forth, was one, as it still purports to be, said State councils having jurisdiction over the several subordinate councils located within the State or Territory indicated by the title of the State council in each case, and subject to the authority of the national council in accordance with the supreme law of the order.

Third. The several councils, usually designated as subordinate councils, the great majority of which are primarily under the jurisdiction of a State council (and through it are subject to the national council), but some of which are directly under the jurisdiction of the national council, this latter being either in States or Territories where no State council exists in fact or where none exists in law because of its charter having been revoked for cause by the national council. That both the national and State councils are representative bodies, the former being composed of representatives from the State councils, as well as from the councils in States where subordinate councils but no State councils exist, and of certain officers and certain past officers; and each State council being composed of

representatives of the subordinate councils under its jurisdiction and of certain officers and certain past officers.

4. That said national council was originally instituted on or about the 30th day of September, A. D. 1869 as the supreme head of the aforesaid order, and has continued to be and to act and operate as such ever since, but it was not incorporated until some years after its institution, to wit: until April 10, 1893, when it became a corporate body by virtue of a decree of the court of common pleas No. 3 in and for the county of Philadelphia, passed agreeably to the provisions of the act of assembly of the Commonwealth of Penn-

sylvania, entitled "An act to provide for the incorporation and regulation of certain corporations" approved April 29, 1874, and the supplements thereto, and a copy of the certificate of incorporation etc. of said national council decreed or granted as aforesaid, is filed herewith, marked "Complainant's Exhibit A," and is to be read and considered as a part of this bill of complaint.

5. That the aforesaid State Council of the District of Columbia was created and chartered by said complainant National Council, at a regular annual session of said national council held at Asheville, in the State of North Carolina, on or about the 22d day of June, A. D. 1894, and continued from that time until its charter was revoked and it, in effect, was expelled from the order, as hereinafter set forth, to be the head of said order in the District of Columbia, but it was not incorporated until January 15, 1900, twelve days before its charter was revoked. A copy of the certificate of incorporation of said State council (same being the defendant No. 1) is herewith filed as a part hereof and is marked "Complainant's Exhibit B."

6. That the place of the annual meeting of the national council has been selected for many years past by majority vote of the national council in accordance with the written laws governing the order; that in the year 1898 at the annual meeting held in Louisville, Kentucky, by such majority vote (in which representatives of the State Council of the District of Columbia joined) and in accordance with said laws, Minneapolis, Minnesota, was selected as the place of meeting for the year 1899, and pursuant to such selection and after due notice, the said national council met in annual meeting at said city of Minneapolis in the month of June 1899, at which meeting a duly qualified representative of the State Council of the District of Columbia was present and participated. That at said annual meeting of 1898 the law committee (a standing committee) was directed to report and submit a revision of the national constitution and laws of the order at the meeting of 1899, and at the latter meeting they did report accordingly, and as a result of said report a revised constitution and laws were, in conformity with

the constitution and laws as then in force, adopted, and thereupon became the supreme law of the order. Said constitution and laws as so revised and adopted are set forth in full in the appendix to the official printed report of the 31st annual session of the said national council held at Minneapolis in June 1899,

at numbered pages 7 to 70 of said appendix, which printed report is herewith filed as a part hereof, marked "Complainant's Exhibit C," and complainant prays leave to read so much of said appendix as may be deemed relevant or material, as well as any part or parts of the report of proceedings at said annual meeting contained in the same pamphlet as may be deemed necessary at the final and all preliminary hearings in this cause as a part of or in connection with this bill of complaint. Complainant shows further that owing to certain doubts having arisen as to the validity of the laws passed at the said Minneapolis session owing to the same having been enacted and adopted at a meeting held outside of the State of origin of the complainant corporation, all of said proceedings of the Minneapolis session but particularly the adoption of the revised constitution and laws aforesaid were expressly ratified by resolution duly adopted at the following regular annual session of the national council held at the city of Philadelphia, State of Pennsylvania, in the month of June A. D. 1900, as will appear by reference to pages 11 to 13 of a printed report of the proceedings of said meeting of June 1900, which report is herewith filed, marked "Complainant's Exhibit D," and complainant prays leave to read said pages as a part hereof, and also to read from and refer to any and all other portions of said report in connection with the final and all preliminary hearings in this cause so far as the proceedings therein recorded or reported may be deemed by the court relevant and material. Complainant, however, avers, that it is advised and now believes that said revised constitution and laws and all of the proceedings of said Minneapolis meeting were entirely valid and that said ratification was unnecessary.

7. That prior to the adoption of said revised constitution and laws the complainant, by virtue of the national constitution and laws as then in force had power to levy and collect and did levy and collect, through the several State councils and through subordinate
6 councils directly under its jurisdiction a *per capita* tax on the members of the order for its general purposes and also a *per capita* tax for the special purpose of supporting the orphans' home at Tiffin, Ohio, conducted under the management of said order, and that said provisions were retained in substance in the said revision, but were amended or revised, so that, at the times at which the matters and events hereinafter recited and complained of occurred, the provisions of the constitution and laws of the aforesaid order relating to *per capita* tax provided *inter alia* as follows, namely: (the same being still in force):

"The revenue of the national council shall be derived from the following enumerated sources: 1. From a *per capita* tax upon every member of the order, which tax shall be in amount as enacted from year to year by the national council in regular meeting, shall be paid to the national secretary by the State council secretaries and the recording secretaries of councils under the jurisdiction of the national council, and shall be transmitted by registered mail or ex-

press, one-half thereof on the 15th day of April and one-half on the 15th day of October of each year, the said tax to be levied on the total membership of the order as reported in the annual report of State council secretaries and recording secretaries of councils under the jurisdiction of the national council, preceding the said meeting of the national council." Chapter XXI, section 1, page 40 of printed laws (Exhibit C).

And that the national council at its said session of 1899 lawfully, in pursuance of the authority vested in it as aforesaid, did by a vote in which a representative of the State council of the District of Columbia joined, fix the amount of *per capita* tax for the ensuing year June 1899 to June 1900 at fifteen cents, same being the *per capita* tax for general purposes including the expenses of the national council, and did, at the same time, fix the amount of the *per capita* tax for the special purpose of the support of the orphans' home aforesaid, at ten cents. (See proceedings of Minneapolis meeting, page 112 of Exhibit C.)

7 That while said *per capita* tax was based upon the total membership of the order it was the province and duty of each State council to collect the same from the several subordinate councils under its jurisdiction, and was the province and duty of the State Council of the District of Columbia to collect the same from the subordinate councils in said District, and to transmit the same to the national council, and said State council was vested with full authority in that behalf, under the laws of the order, and had authority to levy a tax upon each of the subordinate councils to raise a fund to pay said *per capita* tax to the national council if they elected to collect and meet the tax in that manner, and was, indeed, in receipt of a tax from the subordinate councils more than sufficient to pay said *per capita* tax.. Complainant further avers that the amount or rate of said *per capita* tax was reasonable and such as was necessary for the objects thereof, and said taxes were in fact the same as to amount or rate as those levied or fixed by the annual meeting of the preceding year for that year, to wit: the year ending June 1899.

8. That the State Council of the District of Columbia was duly and lawfully notified of the action of the national council in fixing and levying said *per capita* tax of fifteen cents for general purposes and also of ten cents for the support of the orphans' home, and thereafter considered the matter of collecting and paying over the same to said national council at a regular semi-annual session held at Washington in said District on August 14th and 15th, 1899, and did, at said session, adopt a resolution whereby they refused to pay any part of said *per capita* tax, said resolution, after reciting certain alleged grievances, being as follows: "Resolved, That in view of the above-mentioned grievances, this State council hereby calls for a special session of the national council to right them, and that, until the same is done, it respectfully but firmly refuses to pay any *per capita* tax to said national council. Resolved further, That this State

council hereby calls upon its sister jurisdictions to take the same action." And that pursuant to said resolutions said State council persistently refused to pay or to take any steps to collect said *per capita* tax or any part thereof, and has not paid the same or any part thereof, to the national secretary or to any other official or person for the said national council.

8 9. That because of said refusal of the State council to pay said *per capita* tax, charges of insubordination were preferred against it by an official having authority in the premises, known as the national councilor, before the national judiciary, which is the supreme judicial branch of the government of said order, and is a co-ordinate branch or department of the national council, and said national councilor, pending an investigation of said charges, temporarily suspended the charter of said State council of the District of Columbia; that thereafter a hearing and trial was had in the District of Columbia by said national judiciary, at which said State council was represented and fully heard, as a result of which a decree was duly made and entered to the effect that the suspension of the charter of said State council having expired by the terms of the proclamation thereof, the relations that existed between the State council and the national council at the time of the suspension are restored and ordered resumed, and that the State councilor, and other officers of the State council, pay, on or before January 15, 1900, the amount of *per capita* tax due the said national council on the 15th day of October, 1900, and unpaid, and that in the event of the failure of said State council through its officers so to do, its charter be revoked. Said decree was rendered on the 23rd day of November 1899, and, together with the opinion of the court discussing the alleged grievances of the State council, is inserted at length at pages 80, 81, 82, 83, and 84 of the report of the proceedings of the national council of the year 1900, already referred to and filed as Exhibit D herewith. That the officers of the said State council were duly notified of said decision but they and said State council refused to comply therewith and utterly failed to pay said tax, whereupon and after the time fixed in said decree had elapsed, the said national council, acting through its national judiciary as a court as aforesaid, did finally decree, to wit, on the 27th day of January 1900, "that the charter of the State council of the District of Columbia be and the same is hereby revoked, and the late officers of the said State council, or such of them as may be in possession thereof are hereby directed to deliver to the

9 national secretary the charter with all rituals, books, papers, moneys, property or effects of every description belonging to the said State council, it being understood that all councils in the District of Columbia heretofore under the jurisdiction of the State council, come concurrently with this order, under the jurisdiction of the national council and subject alone thereto," etc., as said decree is fully set forth at pages 84 and 85 of the aforesaid Exhibit D. Said final decree was duly proclaimed by the national councilor in

accordance with the laws and rules of the order, on February 2, 1900, of which the defendants had due notice.

10. That at the time said charter was suspended as aforesaid, there were in this District, subordinate to said State council, twenty-one councils having a total membership of sixteen hundred and sixty-one contributing members (as reported in June 1899), three only of which councils (having a total membership of about four hundred) are now in good standing, they having availed themselves of the privilege of placing themselves in direct communication with and under the immediate jurisdiction of the national council, as provided for by the decree of the national judiciary hereinbefore recited, and having afterwards paid their proportion of the *per capita* taxes aforesaid to the national council, but the remainder of said subordinate councils, seventeen in number, have not availed themselves of said privilege (which is still open to them) and have not paid to said national council or its national secretary their proportion of the aforesaid *per capita* taxes, and said councils continue to conduct themselves as subordinate to the said State council, and that said State council, through its officers and members, encourages them in said conduct and in their insubordination to the supreme laws and constitution of the order. Complainant further avers that said State council, or its executive board acting for it, has since the revocation of its charter, actually gone through the form of instituting a new subordinate council to be known as the Capital Council No. 25 of the Junior Order of United American Mechanics of the District of Columbia, which is now actually acting as though it were a duly organized council, although the right to charter and institute such councils was lost to said State council by the said revocation of its charter by the national council.

11. Complainant is advised and believes and here avers that it had full power and jurisdiction to pass the aforesaid final decree by virtue of the laws of the order and particularly refers to the 11th paragraph of the 15th section of the 7th article of the constitution and national laws, adopted June 1899, now and at the time of said proceedings in force, which expressly gives or reserves to the national council power to grant charters to State councils and to provide by law for the issue, revocation, suspension, restoration and re-issue of such charters.

12. Complainant further avers that, through its officers, it has made due demand upon the State officers of the said State council to comply with the requirements of said final decree by delivering to the national secretary the charter with all rituals, etc., as therein enumerated, but that said State council through its officers has neglected or refused and still neglects or refuses to deliver up the same or any of them, to the national secretary or to complainant, and that complainant has exhausted all lawful means of enforcing compliance with said decree, except resort to a court of justice, without being able to recover said charter, rituals, books, papers, moneys, property or effects of said State council. That said defendant State Council has in

its possession or in the possession of its officers defendants 2 to 6, or some of them, the charter granted by complainant under which said defendant was working and still purports to be working, and books containing the ritual, and the records, etc., and considerable sums of money the amount of which complainant is unable to state, as well as other property and effects heretofore accumulated and held by it in right of its charter granted by complainant, to the possession of all of which the complainant is justly entitled by virtue of the decree aforesaid, but which it has no adequate means of recovering except by the intervention of this honorable court.

11 13. That said defendant State Council without regard to the aforesaid revocation of its charter, and without regard to the fact that by reason of such revocation it no longer has any lawful standing in or connection with the Junior Order of United American Mechanics, as complainant here specifically avers, continues and ever since the date of said revocation, to wit, January 27th 1900, has continued to assume to be the supreme head in the District of Columbia of the aforesaid order, and to hold meetings and transact business as such, and to make use of the ritual, etc., of said order, and in all respects, save subordination to said national council, to act and conduct itself, through its officers and members, as before said charter was revoked, which conduct and action of the State council, complainant avers tends to subvert all law and authority in the order and is in direct opposition not only to the national laws of the order but also to the constitution of said State council adopted by it while it was in good standing in the order and in force at the time said charter was revoked, which constitution is contained on pages 74 to 90 of a printed pamphlet marked "Complainant's Exhibit E" herewith filed, and complainant prays leave to read as a part hereof the preamble and first article of said constitution (pages 74, 75 and 76 of said Exhibit E), which expressly recognize that all lawful authority of said State council emanates from the national council and must be exercised in conformity with the national laws.

Complainant further avers that the conduct of said State council is detrimental to the welfare and interests of the order, and is and constitutes a wrong and fraud against this complainant and the members of said order in good standing which ought to be redressed, as complainant is advised, by a court of equity, and that if said State council continues to operate and act as aforesaid and to disregard the terms of the decree aforesaid as complainant is informed and believes it intends to do, complainant and the members of said order in good standing represented by it will suffer irreparable injury, wherefore complainant being without adequate remedy at law, brings this suit in equity where matters of the sort are properly cognizable, and prays:

Prayers.

1. That the court will by its preliminary injunction or restraining order, enjoin and restrain the defendant corporation and the other defendants as its officers from holding meetings and conducting business as a State council of the Junior Order of United American Mechanics, and from granting any charter or charters to or instituting or attempting to institute any councils of said order in the District, or otherwise conducting itself and themselves as the supreme head and representatives in the District of Columbia of the aforesaid order, pending this suit, and also from disposing of the money, effects and other property hereinbefore referred to.

2. That upon a final hearing herein the court will by its decree make the aforesaid injunction final and perpetual in such manner and form that the defendants and their successors shall be perpetually prevented from acting and conducting business as the head or supreme representatives in the District of Columbia of the order aforesaid or in anywise representing or belonging to the same in their corporate, organized or official capacities.

3. That the court will also perpetually restrain and enjoin the defendant corporation, its members and officers, from using or causing to be used and employed the name and title "Junior Order of United American Mechanics" either alone or with prefix or suffix, or words of description or place added thereto, and also from using the emblem of or ceremonies and ritual peculiar to the order aforesaid.

4. That the court will restrain and enjoin the defendants 2, 3, 4, 5, and 6 from acting as or performing the duties of State councilor, State vice councilor, junior past State councilor, State Council secretary and State Council treasurer, to which offices they claim to have been respectively elected and will also restrain the said so called State Council of the District of Columbia, Junior Order of United American Mechanics, from electing or attempting to elect successors to said alleged offices or any of them.

13 5. That the court will by its decree direct and require the defendants to turn over and deliver to the national secretary of the order agreeably to the decree of the national council hereinbefore recited, or to the complainant direct through its duly authorized agent or attorney, the charter of the State council (granted to it by the complainant, and since revoked as hereinbefore stated) together with all published rituals of the order, books, papers, moneys, effects and other property of every description belonging to said State council of said order and to that end that all necessary accounts and references may be ordered, taken and had.

6. That complainant may have such other and further relief as the nature of the case may require and to the court may seem just.

7. And that to the ends aforesaid the court will grant the complainant process by the United States writ of subpoena addressed to

the defendants requiring them to appear and true answer make to the exigencies of this bill.

GEO. FRANCIS WILLIAMS,
ALONZO W. SHUNK,
Solicitors for Complainant.

14 DISTRICT OF COLUMBIA, ss :

I, Alonzo W. Shunk, do solemnly swear that I am as attorney in fact for The National Council of the Junior Order of United American Mechanics of the U. S. of N. A., the complainant in the annexed bill, authorized to make this affidavit, and that I am familiar with the facts and occurrences therein set forth and alleged, having been a member of that order for the past nineteen years and being also a member of said national council ; that the bringing of this suit is authorized by a written power of attorney to Mr. Williams and myself (the solicitors herein) which is hereunto annexed ; that I have read the said bill and know the contents thereof ; that the facts stated in said bill of complaint as of personal knowledge are true, and those therein stated on information and belief, I believe to be true.

ALONZO W. SHUNK.

Subscribed and sworn to before me, this twenty-first day of November, A. D. 1900.

J. R. YOUNG, *Clerk*,
By R. J. MEIGS, *Ass't Clerk*.

[Endorsed:] Bill National Council etc. vs. State Council of the D. C. In equity No. 21890 A. W. Shunk 812 B St. N. E.

15 EXHIBIT "A."

* * * * *

National Council Charter.

Acting under the instructions of National Councilor James Cranston, as directed by the last session of this body, I placed the matter of securing a charter for this national council in the hands of Past State Councilor, S. S. Sibbs, who secured it. I then had it framed, and it now graces the walls of the office.

The following is a copy :

To the National Council of the Junior Order of United American Mechanics of the United States of North America :

Be it known that the subscribers, who with their associates, comprise the National Council of the Junior Order of United American Mechanics, the supreme head of that order in the United States of

North America, which has been organized for beneficial and protective purposes, and among other things for the advancement of the following objects, viz :

First. To maintain and promote the interests of Americans and shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and to uphold the reading of the Holy Bible therein, are desirous of becoming incorporated agreeably to the act of the General Assembly of the Commonwealth of Pennsylvania, entitled An act to provide for the incorporation and regulation of certain corporations, approved the twenty-ninth day of April, anno Domini, one thousand eight hundred and seventy-four and its supplements, and to that end they do hereby declare set forth and certify that the following are the purposes, objects, articles and conditions of the said council for which they desire to be incorporated.

First. The name of the corporation shall be "The National Council of the Junior Order of United American Mechanics of the United States of North America."

Second. The purpose for which the corporation as formed is for the maintenance of a society for beneficial or protective purposes to its members from funds collected therein.

Third. The business of the corporation is to be conducted in the city of Philadelphia.

Fourth. The corporation is to exist perpetually.

Fifth. The names and residences of the subscribers are as follows:

John W. Calver, 448 Marshall St., Philadelphia.

Edward S. Deemer, Oak lane, "

Samuel S. Sibbs, Somerton, "

John R. Fanshawe, Germantown, "

Edward G. Badger, 1234 South Broad St. "

The corporation has no capital stock.

Sixth. The officers of the corporation elected for the present year are :

National councilor, James Cranston, box 705, Pittsburg, Pa.

National vice-councilor, H. A. Kibbe, New Brunswick, N. J.

National secretary, E. S. Deemer, Oak lane, Philadelphia, Pa.

National treasurer, J. Adam Sohl, Baltimore, Md.

National conductor, Fred. Schaefer, New York city.

National warden, H. P. Fuller, Haverhill, Mass.

National inside sentinel, F. J. Stockwell, Sioux City, Iowa.

National outside sentinel, S. C. Anderson, Excelsior Wash.

Junior past national councilor, J. R. Boblits, Baltimore, Md.

National organizer, Stephen Collins, Pittsburg, Pa.

During the year the business of the national council is in charge of a board of officers, consisting of the following:

National councilor, James Cranston.

National vice-councilor, Harry A. Kibbe.

Junior past-national councilor, John R. Boblits, above named.

Witness our hands and seals this twenty-eighth day of February, anno Domini, one thousand eight hundred and ninety-three.

EDWARD S. DEEMER.	[SEAL.]
JOHN W. CALVER.	[SEAL.]
JOHN R. FANSHAW.	[SEAL.]
SAMUEL S. SIBBS.	[SEAL.]
EVAN G. BADGER.	[SEAL.]

COMMONWEALTH OF PENNSYLVANIA, }
City and County of Philadelphia, } ss :

Before me the subscriber, the recorder of deeds, in and for the city and county of Philadelphia, personally appeared Edward S. Deemer, Samuel S. Sibbs and John W. Calver, three of the subscribers
 18 to the above and foregoing certificate of incorporation of the "National Council of the Junior Order of United American Mechanics of the United States of North America," and in due form of law acknowledged the same to be their act and deed.

Witness my hand and official seal this tenth day of March, anno Domini, one thousand eight hundred and ninety-three.

[SEAL.] JOSEPH K. FLETCHER,
Deputy Recorder of Deeds.

Decree.

In the Court of Common Pleas, No. 3, in and for the City and County of Philadelphia, of December Term, 1892. No. 560.

And now this tenth day of April anno Domini, one thousand eight hundred and ninety-three, the within charter and certificate of incorporation having been presented to me, a law judge of said county, accompanied by due proof of publication of the notice of this application as required by the act of assembly in such case made and provided, I certify that I have examined and perused the said writing and have found the same to be in proper form, and within the purposes named in the first class specified in section second of the act of the General Assembly of the Commonwealth of Pennsylvania, entitled—An act to provide for the incorporation and regulation of certain corporations, approved the twenty-ninth day of April, anno Domini, one thousand eight hundred and seventy-

four, and the supplements thereto, and the same appearing to be lawful and not injurious to the community.

19 I do hereby on motion of Frank M. Cody, Esq., solicitor for the petitioners, order and direct that the said charter of "The National Council of the Junior Order of United American Mechanics of the United States of North America," aforesaid, be and the same is hereby approved, and that upon recording of the same and of this order, the subscribers thereto and their associates, shall be a corporation by the name of "The National Council of the Junior Order of United American Mechanics of the United States of North America," for the purposes and upon the terms therein stated.

[SEAL.]

HENRY REED.

Recorded in the office for recording deeds, in and for the city and county of Philadelphia, in Charter Book No. 19, page 47, etc.

Witness my hand and seal of office, this eleventh day of April, anno Domini, one thousand eight hundred and ninety-three.

THOMAS GREEN,

Recorder of Deeds.

[SEAL.]

20

COMPLAINANT'S EXHIBIT B.

(10 cts. int. rev. stamp affixed.)

Articles of Incorporation of the State Council of the District of Columbia, Junior Order of United American Mechanics.

Acts of Incorporations No. 9, folio 25 *et seq.*

Whereas, the members of the State Council of the District of Columbia, Junior Order of United American Mechanics, who are a duly organized State Council of the Junior Order of Fee, \$1.00. United American Mechanics, and the supreme head St., 10 cts. of that order in the District of Columbia, desire to become a body corporate; therefore, know all men by these presents, that for ourselves, associates, and successors, we, the undersigned, the executive board of officers, secretary and treasurer, of the State Council of the District of Columbia, Junior Order of United American Mechanics, all of whom are of full age, and citizens of the United States, and residents of the District of Columbia, pursuant to, and in conformity with the Revised Statutes of the United States relating to the District of Columbia, do hereby make, sign, and acknowledge the following certificate of incorporation: First, the name or title of the corporation hereby incorporated, shall be the State Council of the District of Columbia, Junior Order of United American Mechanics. Second, the term for which said corporation is organized, shall be twenty years. Third, the particular

business and objects of the said corporation, shall be the maintaining of a society for benevolent, beneficial, fraternal, protective, and patriotic purposes. Said corporation shall be the supreme head of the Junior Order of United American Mechanics in the District of Colum-

21 bia, and shall have the right, power, and authority, to institute councils of said order in the District of Columbia, and to grant to them warrants or charters, as councils of said order, and to revoke, suspend, restore, and reissue such warrants or charters; and to provide laws, rules, and regulations for the government, management, and control of said councils. Said corporation may take, receive, hold, and convey, real and personal estate, necessary for the purposes of the corporation, as stated in this certificate, and other real and personal property, the clear annual income from which shall not exceed in value, twenty-five thousand dollars (\$25,000).

Fourth. The number of its trustees for the first year of its existence shall be three.

In witness whereof the said undersigned have hereunto set their hands and seals, at the city of Washington, in the District of Columbia, this 13th day of January, A. D. 1900.

GEORGE KEITHLEY, [SEAL.]
Of Washington, D. C.,

JOHN E. CRAMPTON, [SEAL.]
Of Washington, D. C.,

JOHN D. SCHOFIELD, JR., [SEAL.]
Of Washington, D. C.,

Executive Board of the State Council of the District of Columbia.

WILLIAM L. BOYDEN, [SEAL.]
Of Washington, D. C.,

Secretary of the State Council of the District of Columbia.

DWIGHT M. WEEKS, [SEAL.]
Of Washington, D. C.,

Treasurer of the State Council of the District of Columbia.

Witness-:

SAMUEL C. MILLS.

J. R. SMALLWOOD.

22 & 23 DISTRICT OF COLUMBIA, ss:

I, Samuel C. Mills, a notary public in and for the said District of Columbia, do hereby certify that George Keithley, John E. Crampton, John D. Schofield, Jr., William L. Boyden, and Dwight M. Weeks, parties to a certain certificate of incorporation, bearing date on the 13th day of January, A. D. 1900, and hereto annexed, personally appeared before me in the said District of Columbia, the said George Keithley, John E. Crampton, John D. Schofield, Jr., William L. Boyden, and Dwight M. Weeks, being personally well known to me to be the persons who executed the said certificate of

incorporation, and acknowledged the same to be their act and deed for the purposes therein stated.

Given under my hand and notarial seal, this 13th day of January, A. D. 1900.

[NOTARIAL SEAL.]

SAM'L C. MILLS,
Notary Public, D. C.

DISTRICT OF COLUMBIA,
OFFICE OF THE RECORDER OF DEEDS,
November 21, 1900.

This is to certify that the foregoing is a true and verified copy of a certificate of incorporation, and of the whole of such certificate, as received for record on the 15th day of January, 1900, 11.40 a. m.

GEO. F. SCHAYER,
Dep. Recorder of Deeds.

[SEAL.]

(10c. I. R. stamp.)

* * * * *

24 *Memoranda.*

Exhibit C is an official printed report of the 31st annual session of national council held at Minneapolis, June 20, 1899, and is transmitted herewith.

Exhibit D is an official printed report of the 32nd annual session of national council held at Philadelphia, Pennsylvania, June 19, 20 and 21, 1900; and is transmitted herewith.

Exhibit E is a printed pamphlet containing general laws &c. of national council and is transmitted herewith.

25 *Separate Answer of Def't State Council of the District of Col'a.*

Filed January 31, 1901.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR ORDER of United American Mechanics of the United States of America	}	# 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF COLUM- bia, Junior Order of United American Me- chanics, <i>et al.</i>	}	

Separate Answer of the State Council of the District of Columbia,
Junior Order of United American Mechanics.

The State Council of the District of Columbia, Junior Order of United American Mechanics, for answer to the bill of complaint of the above complainant shows to the court as follows:

1. It admits that the National Council of the Junior Order of United American Mechanics of the United States of North America is a body corporate organized under the laws of the State of Pennsylvania and that, within the limitations and restrictions of its charter and constitution and the laws of the Junior Order of United American Mechanics, it is the supreme head of the said order; but it denies that under the facts, circumstances and existing conditions hereinafter set forth, the complainant, in a court of equity, is entitled to any standing as, or to be considered, the National Council of the Junior Order of United American Mechanics of the United States of North America. It admits that the said body corporate has no corporate stock, but avers that it is the holder of the legal title to a large amount of corporate property, of which it stands seized as trustee for the benefit of this defendant in common with
 26 other bodies in like situation, and for the benefit of numerous individuals belonging to the Junior Order of United American Mechanics and represented by this defendant and other bodies of similar character.

2. This defendant admits that it is a body corporate, duly incorporated as in the bill set forth, and it is willing to admit for the purpose of this suit the allegations of the second paragraph of the bill in respect to the individual defendants thereto, except that it denies that it and its said co-defendants are acting without lawful authority as alleged.

3. It admits that the Junior Order of United American Mechanics is a patriotic, fraternal, beneficial, secret order, the membership of which at the date of its annual report in June 1899 exceeded 183,000 members, and this defendant, upon information and belief, avers that it still exceeds that number. It admits that, in the annual report of the complainant of June 1900, this membership was represented as being in the neighborhood of 150,000 members; but it avers that the said apparent reduction in membership grew out of the omission from said report of the members of the order represented by the State councils of New Jersey, New York, Virginia and the District of Columbia, because of the differences between the said so-called national council and the said several State councils, and it avers that the membership according to the said report would have been reduced to about 65,000, or only about one-third of the actual members of the order, if the like omission had been observed with respect to the members of the order represented by the State council of Pennsylvania, which said State council of Pennsylvania stands in all respects in the like attitude with the said several omitted State councils. It admits that all members of the said order are white male citizens of the United States, born within its territory or under the protection of its flag, and that no others are eligible to membership;
 27 and that it is organized and working in a majority of the States and Territories of the United States and in the District of Columbia. It admits, further, that the order is constituted substantially as set forth in the bill, namely, that the supreme head of the
 3—1518A

order, subject however to its charter, constitution and laws, is a body corporate bearing the title assumed by the complainant in this cause, and that it has the sole authority to grant charters to State councils, and to subordinate councils not under the jurisdiction of a State council, but denies that it has any power to revoke charters, and especially to revoke the charter of this defendant. It admits further that the State councils, including this defendant, have jurisdiction over the subordinate councils located within their respective territorial jurisdictions, and that in States or Territories comprising within their borders less than the requisite number of subordinate councils to constitute a State council, such subordinate councils as do exist are under the immediate jurisdiction of the national council. It denies that the national and State councils are in any strict or accurate sense representative bodies, the national council being composed in part of representatives of State councils, and the latter being composed in part of representatives from subordinate councils, but both classes of councils being also composed in large part of certain officers, past-officers and committee-men who are in no sense representative, and who in fact, in so far as the national council is concerned constitute a very large majority of that body as at present constituted, or as the complainant claims it to be constituted, the representative members constituting at present, as this defendant is informed, believes, and therefore avers, less than one-third of the membership of the said national council as the complainant claims it to exist.

28 The integrity of the order, and the preservation to its members of their cardinal rights, are preserved to it and them by the provision of the constitution that the objects of the order shall not be changed by the national council until any change adopted by it shall have been approved by a majority of its members, and its constitution and its general laws shall not be changed oftener than once in five years, unless by a two-thirds vote of the members present at a regular session of the national council, or a special session called for the purpose, and subject to certain other provisions set forth in article 25 of the constitution of the national council, page 70 Exhibit "E" to the bill.

4. It admits the allegations of the fourth paragraph of the bill as to the institution and incorporation of the National Council of the Junior Order of United American Mechanics but avers that although designated the supreme head of the order, its powers are not supreme but are expressly limited as hereinbefore and hereinafter set forth. It further denies that the said national council has continued to be and to act and operate as such ever since, but on the contrary avers that certain members of the national council combined together at Minneapolis in the State of Minnesota in June, 1899, and illegally obtained control of its affairs, and contrary to the laws of the order and in violation of its charter and constitution, usurped the rights, privileges and authority of the national council and the order at large, and subverted its laws and government, and per-

verted its objects and principles, established new objects, principles and laws, attached new branches to said order, and virtually formed another order, which they designated "United Americans."

5. Answering the fifth paragraph of the bill, this defendant says that on June 22nd, 1894, certain members of the order of the District of Columbia applied to the national council at its session at Asheville, North Carolina, which national council for a valuable consideration granted or sold to them and to their successors a charter as the State Council of the District of Columbia of the said order, and granted and sold to them together therewith certain rituals, record and account books, and other supplies pertaining to the order; but it denies that the said charter was or could be revoked by the complainant, or this defendant expelled from the order as alleged; nor does it admit that the complainant in this cause is, or is entitled to be considered as, the National Council of the Junior Order of United American Mechanics of the United States of North America, in a court of equity, or in any other court, for the reasons hereinafter set forth. This defendant avers that the national council did not reserve the right, power or authority to suspend or revoke the charter so granted to this defendant at the time of granting the same, nor was such power specified, referred to or reserved by it in or by its said grant, nor was any right to suspend or revoke the same provided by the charter, constitution or laws of the order at the time the same was granted, nor has it since been created or conferred in any other manner whatsoever.

6. It admits that the place fixed for the meeting of the national council for the years 1898 and 1899 were, respectively, Louisville, Kentucky, and Minneapolis, Minnesota, and that a duly elected representative of the State Council of the District of Columbia was present at the said Minneapolis session, but it denies that he in fact acted as the representative or in the interest of this defendant or of the members of the order, of the District of Columbia. On the contrary it avers that he attended the said session for and in the interest of those members of the national council who combined to obtain illegal control over its affairs as above and hereinafter set forth, and that he combined and confederated with them to substitute new objects and principles and a new name and code of laws for said order, in violation of its constitution and laws; that in pursuance of said confederation new objects and principles and a new name and code were illegally declared adopted by the said parties at the said Minneapolis meeting; that the said representative has ever since been a zealous ally of the said faction of the national council, and has constantly and zealously worked for it and against the State Council of the District of Columbia and its members, whose representative he professes to be; that at the meeting of the said usurping or alleged national council in June 1900, held at Philadelphia, Pennsylvania, the said representative was admitted as a member thereof, although all other representatives, past-representatives and past State councilors of the District of

Columbia, about 15 in number, and who were rightfully entitled to admission, were not granted credentials by the person acting as national secretary as had always been theretofore done and as was required by the customs and laws of the order, but were denied admission thereto.

It admits that at the said meeting of the alleged national council at Philadelphia, it undertook to adopt a resolution ratifying, itself, all of the said alleged proceedings so as aforesaid undertaken to be had at the session of 1899 at Minneapolis, but it avers that the said attempt at ratification was also illegal, and all the proceedings in aid thereof were wholly invalid and without effect for the reason that, as hereinafter shown, section 2 of article 2 of the constitution of the national council provides, in terms, that "The objects of this order shall not be altered unless proposed in writing, and if adopted, the alteration shall be submitted to the members of the order for a

31 vote thereon, and shall be of no effect unless approved by a majority vote;" that the objects of said order as set out in the charter of said national council were, at and prior to the said Minneapolis meeting,

"First. To maintain and promote the interests of Americans, and shield them from the depressing effects of foreign competition.

"Second. To assist Americans in obtaining employment.

"Third. To encourage Americans in business.

"Fourth. To establish a sick and funeral fund.

"Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and to uphold the reading of the Holy Bible therein."

To these objects, thus fixed by the charter, there was added in the year 1897, in the manner prescribed by the constitution, namely, by the adoption thereof at a meeting of the national council, and the submission of the same to, and its approval by a majority of the members of the order, the following additional object:

"Sixth. To establish or erect an orphans' home for the orphans of deceased members of the order, and to maintain the same;"—the said six enumerated objects being the only objects of the order at the time of the said Minneapolis meeting; that, at the said Minneapolis meeting, the said faction above referred to undertook to alter the said objects, as the same then existed, in the following material and radical particulars, among others, namely:

(1.) By restricting the objects and efforts of the order from shielding the interests of Americans "from depressing effects of foreign competition," to shielding them from "the depressing effects of unrestricted immigration," only.

32 (2.) By burdening the order with an insurance branch, formulated into a complicated, expensive and financially hazardous scheme, in no manner assumed, authorized or contemplated prior thereto by the State or subordinate councils, or by the

individual members of the order—both of the said alterations in its objects being attempted, and declared to have been made, without submission thereof to the members of the order for a vote thereon, and without the approval of a majority vote as required,

In addition to the fact that the only alteration in the objects of the order as set forth in its charter, namely, that in regard to the establishment of an orphans' home, was proposed in writing, adopted by the national council, submitted to the members of the order for a vote thereon, and became effective only upon its approval by a majority vote as prescribed by the constitution, this defendant further shows to the court that on two different occasions prior to the Minneapolis meeting, alteration of the objects of the order by the addition of an insurance branch or scheme was adopted by the national council, and submitted to a vote of the members as provided by the constitution, but that the same, on both occasions, failed of effect because they were not approved by a majority vote of the members of the order, and thereby concededly became and were inoperative and void; that various other proposed alterations of the objects of the order in like manner adopted from time to time by the national council became of no effect by the like failure to receive the approval of a majority vote of the members of the order, and that from the foundation of the order, in 1853, the said proceedings in Minneapolis in 1899, and those in Philadelphia in 1900, were the only attempts to violate the constitution and laws, and the invariable custom and course of procedure of the order, by altering its objects without submission of the proposed alterations to vote of the membership, and regardless of the approval or disapproval of the same by a majority vote thereof, as provided by the constitution.

33 This defendant further shows to the court that article IX, section 10 of the General Laws of the National Council, page 16 Exhibit "E" to the bill, provides in terms against alteration of the law in reference to regalia without submission thereof to a vote of the members of the order and approval by a majority vote in favor of such alteration; but that the said Minneapolis meeting, in violation of said law, struck out entirely sections 4, 5, 6, 7, 8, and 10, besides changing section 9, of said article IX, governing the law of regalia, without submission of the same to a vote of the membership and without the approval of a majority vote, thereby not only changing the law in reference to regalia of the order, but enabling itself thereafter to exercise unrestricted power in changing the law upon that subject from time to time, without submission to or approval by a majority vote of the members.

Further answering the sixth paragraph of the bill, this defendant avers that article 25 of the constitution of the national council which was in force and effect prior to and during the national council meetings at Louisville and Minneapolis, in June 1898 and June 1899, respectively, the said constitution being Exhibit "E" to the bill, provides as follows:

"SEC. 1. This constitution or the general laws of the order shall not be altered or amended oftener than once in five years, unless by a two-thirds vote of the members present at a regular session of this national council or a special session called for the purpose; provided, all alterations or amendments shall be in writing, signed by two or more members of the national council, and shall be referred to the committee on law before final action is taken thereon.

34 "SEC. 2. All proposed alterations or amendments shall be examined by the committee on law and reported to the national council at its next session, together with such further amendments and recommendations as may be deemed necessary to preserve the consistency and sense of this constitution and the general laws; provided, that when the national council refers the general laws or constitution of the national council to a committee for revision, such reference shall be sufficient notice of any proposed alteration or amendment.

"SEC. 3. The action and recommendations of the committee shall be published at least thirty days prior to the next session of the national council when final action may be taken."

Changes that had been made in both the constitution and the general laws of the order in less than five years prior to both the said Louisville meeting of 1898 and the said Minneapolis meeting of 1899. At the Louisville meeting of 1898, no alteration or alterations in the objects of the order were proposed in writing, signed by two or more members of the national council, or referred to the committee on law, nor had any such alterations or amendments been in any manner proposed, up to and including the adjournment of the said annual meeting of 1898; nor were there any alterations or amendments then pending which required any change in any of the objects of the order, or in the laws in reference to its regalia, in order to preserve either the consistency or sense of the constitution or of the general laws. Nevertheless, upon a mere reference at the said Louisville meeting of the general laws and constitution of the national council and subordinate councils, to the law committee for general revision, and in the absence of any proposed alteration or amendment in writing, signed by two or more members of the national council, or referred to the committee on law, and in the absence of any proposed alterations or amendments which required any amendment or recommendation in respect to

35 the objects of the order, or the law of its regalia in order to preserve the consistency and sense of the constitution and general laws, and in the absence of any proposed alterations or amendments of any kind in that regard whatsoever, the law committee assumed to report to the Minneapolis session a recommendation providing for an insurance branch or scheme and a change in the law of its regalia, but no other alteration in the objects of the order was recommended or reported by the committee on law to the Minneapolis meeting, nor published thirty days prior thereto, as required by section 3 of article XXV of the constitution, nor was any

prior notice whatsoever given to the order, nor to its State or subordinate councils, of the other alterations in the objects of the organization so as aforesaid attempted and declared by the complainant to have been made at said Minneapolis meeting, but the said Minneapolis meeting not only thereupon assumed to make all the alterations or amendments above referred to, but did so without a two-thirds vote of the members present, more than one-third of the members present failing to vote therefor, but, on the contrary, voting in opposition to the said illegal alterations in the objects of the order and its law in reference to regalia, and the said Minneapolis session did thereupon further undertake to declare and insist, as the complainant in this cause has continued to declare and insist, that the said attempted changes in the objects of the order and its law in reference to its regalia became valid and effective, notwithstanding its failure and refusal to submit the same to the members of the order for a vote thereon, and notwithstanding the failure of the said alterations, and of each of them, to be approved by a majority vote.

As further illustrating the illegal and invalid character of the attempted changes made at the Minneapolis session, the defendant shows to the court that, prior thereto, the basis of representation was

36 as set forth in section 1 of article 4 of the constitution; that no proposed amendment thereto or alteration thereof existed at the time of the reference of the constitution and general laws to the committee on law at the Louisville session, and that no intimation of any proposed change in said section 1 of article 4 was contained in the report of the committee required by section 3 of article XXV to be published at least thirty days prior to the next session of the national council; but that, notwithstanding, the said Minneapolis session undertook radically to change the said basis of representation, as will appear by a comparison of the said section 1 of article 4 with section 2 of article 7 in the new constitution set up by the complainant as having been created at the said Minneapolis session, which section 2 in article 7 is contained at page 9 of the appendix to Exhibit "C" filed with the original bill.

The defendant denies that, by any proper construction of the charter and constitution of the order, or by any just legal principles, it was competent for the national council, after having twice failed to secure the addition of its so-called insurance branch to the objects of the order, when seeking that alteration through the methods provided by the constitution, and without having proposed or given any notice to the State councils, or to the membership of the order, of a scheme upon its part to free itself of the restrictions upon its powers in that regard created by the charter and constitution, to accomplish such object, and to invest itself with supreme, unlimited and unrestricted power over both State councils and membership, by referring the constitution and general laws to the law committee for "general" revision at the Louisville meeting, wholly without notice or disclosure of any wish, purpose or scheme so to enlarge its powers and to destroy the rights of the State councils and general

membership, and thereupon to claim to have effected such unjust, unreasonable and unconscionable object through its own
 37 construction of a clause in section 2 of article XXV, of possible ambiguity or obscurity ; and this defendant further avers that at no time in the history of the order, since its origin in 1853, has it ever before been claimed that the fundamental safe-guards of the rights of the membership contained in the constitution could be evaded, or that any change in the name, objects or law in reference to regalia could be effected, or was attempted to be effected, by reference to a committee for revision and attempted action thereon by the national council itself, without submission of such proposed alterations and changes to a vote of the membership and approval of the same by a majority vote thereof.

This defendant believes it to be true that certain members of the order in Pennsylvania did question the validity of any laws attempted to be created by the national council, which is a Pennsylvania corporation, at any session held outside of that State, and it believes it to be true that the supreme court of Pennsylvania held that the incapacity of corporations to enact valid laws outside of the State of their creation was not applicable to corporations of the class to which the national council belongs. It further admits that at the Philadelphia session of June 1900 of the body claiming to be the national council, an attempt was made to ratify the proceedings had at Minneapolis in 1899 ; but it avers that it was as incompetent for the said Philadelphia body to ratify the various illegal acts and things above set forth, as it was for the Minneapolis body to enact the same originally ; and it denies that the so-called revised constitution and laws are valid, either with or without the said attempted ratification thereof at Philadelphia.

As further illustrating the extent and character of the alterations in the objects of the order so as aforesaid invalidly and illegally attempted to be made in the alleged revised and amended
 38 constitution, the defendant invites the attention of the court to the fact that, instead of the object " to establish a sick and funeral fund," prescribed in the charter and constitution of the order, the said alleged new constitution substitutes " to establish an insurance branch and a sick and funeral fund ;" and that, to give effect to this new enterprise, thus attempted to be foisted upon the order, although twice rejected by it when submitted to it in the manner required by the constitution, the said Minneapolis session, as will appear from pages 82 to 87 of Complainant's Exhibit " C," enacted that this new, costly and hazardous enterprise should be started upon its career within five days from the close of the session, and imposed upon every subordinate council of the order the duty of receiving applications for membership in the insurance branch and to forward the same to the said branch and to act as collectors of fees and of assessments due to it under its said scheme, and to perform all such other duties as the insurance branch might see fit to impose upon the subordinate councils ; that, in still further pro-

motion of the said new and unlawfully adopted object, as will appear from pages 190 and 207 of the said Exhibit "C," \$5,000.00 of the funds of the order were appropriated for the benefit of the said insurance branch, without any security for the return thereof, which fund could only be provided by an unlawful diversion of funds raised by a *per capita* tax upon the members of the order, and which, when raised, was the property of the order, incapable of being legally or justly so diverted; and in still further promotion and extension of the said unlawfully adopted alteration in the objects of the order, as will appear from page 84 of Exhibit "C," section 13 of the laws creating said insurance branch, or beneficiary degree, provides for insuring the wives of members of the order, and the members of a women's

39 auxiliary, although under the constitution, the order was designed exclusively for males, and males alone were and are eligible to membership therein; that the said changes were not the subject of any proposed alterations or amendments to the constitution or laws, signed by two or more members of the national council, or referred to the committee on law, or published in any report of said committee thirty days before the Minneapolis session, as required by section 3 of article XXV of the constitution, or in any other manner adopted in conformity with the requirements of the constitution and laws of the order. And the defendant further avers that the creation of the said insurance branch, and the conduct of its business, as above set forth, is beyond the scope of the corporate powers of the national council conferred by its charter.

This defendant avers that the object of the said insurance branch is simply and purely insurance, in no way connected with the provision of a sick or funeral fund, and that, by the provisions hereinbefore referred to, the attempt is made to convert the subordinate councils of the order into agencies for insurance business, in large measure, without the consent and against the will of the said subordinate councils, and the said business being wholly foreign to any undertakings or obligations to that end contained in their charters, or assumed by their members in entering the order.

That the aforesaid several attempted changes in the objects of the order are of such a character as to obscure, weaken and destroy their fundamental objects and principles, and to rob them of their former commanding force, effect and high standard, radically changing their true meaning and intent, and converting the order into an insurance organization, contrary to the design and purposes of its creation. Neither this defendant, nor the subordinate councils of the District of Columbia, nor the order, were notified of these proposed new and radical changes, or given notice thereof by published
40 reports of the same prior to the said Minneapolis session, nor were they given, nor did they exercise, any voice or vote in the adoption of the same; that none of them have been submitted to the members of the order for a vote thereon as required by the constitution, nor were the same adopted by a two-thirds vote of the members of the national council present at the Minneapolis session.

The defendant further shows to the court that not only was the attempt made thus to change the objects and laws of the order without conforming to the requirements of the charter, constitution and general laws, but that, by the new laws attempted to be adopted by the said Minneapolis session, it assumed to take away from the members of the order their right to vote upon any future changes in its objects or other concerns, however vital, for all time to come; to repeal and set aside every restriction upon its own powers contained in the constitution and fundamental principles of the order, and to usurp for itself the most absolute, arbitrary and autocratic powers over the entire organization, including its subordinate councils, its individual membership, and its property, without either limit or restriction of any character whatsoever.

As illustrating the uniform construction, course of practice and procedure of the order, and the precedents created and observed by it, the defendant instances the following:

At the session of 1874, the national council desiring to alter the laws affecting regalia, the proposed changes were submitted to the members for a vote, which were opened and counted as an essential requirement, at the following session of 1875, and became effective only upon approval thereof by a majority vote of the membership of the order.

In 1879, the national council having assumed to alter one of the then objects of the order, it was thereupon, upon motion,
41 solemnly determined that the alteration could not be effected without submission to vote of the membership, and the proposed alteration failing to receive the requisite majority, it was declared to have failed of effect.

In 1881, the national council changed the first object by striking out "American youth," and inserting "Americans," and struck out the then fifth object, to-wit, "To prepare the youth of America to become members of the Order of United American Mechanics, when they arrive at the proper age," and adopted a sixth object, to wit, "To maintain the public school system of the United States of America, and to prevent sectarian interference therewith," and also adopted an insurance plan, and as an essential requirement of their becoming effective, submitted all of the said alterations to a vote of the members of the order, and at the session of the national council at New York in 1882, the votes were counted, and the first three alterations, receiving a majority vote, thereupon became valid and effective; but the said insurance plan not receiving a majority vote failed to become effective. By this vote of the members the said proposed new or sixth object became the fifth.

In 1884 the national council adopted an amendment to the fifth object by adding the following, "and uphold the reading of the Holy Bible therein," and also added a new section to general law XXI, being the law in reference to regalia, both of which alterations, notwithstanding their adoption by the national council, were submitted to a vote of the members, as essential to their validity,

and both alterations, having received a majority vote, thereby became effective.

In 1889, the national council changed the name of the order to "The American Legion," and as an essential condition of its validity, submitted the change to a vote of the members of the order, who voted against it, and the change although adopted by the national council thereby became void and of no effect.

42 In 1890, the national council changed the name of the order to "Order United Americans," and submitted the change to a vote of the members, who voted against it, and accordingly the change failed of effect.

In 1897, the national council added the orphans' home as a new object, and only on and after its submission to the members, and its approval by a majority vote, it became and was recognized as an effective and valid change.

And the defendant avers that in each and every of these proposed alterations, the same, notwithstanding their adoption by the national council, became, or failed to become, valid and effective, according as they were or were not approved by a majority vote of the members.

7. It admits that prior to the said attempted adoption of a different constitution and laws, the national council had power to levy and collect through the several State councils, and through such subordinate councils as were directly under its jurisdiction, a reasonable *per capita* tax upon the members of the order for its general purposes, and a reasonable *per capita* tax for the special purpose of supporting the orphans' home organized under the sixth object of the order adopted as hereinbefore set forth; but it denies that the national council obtained any further powers in relation to the *per capita* tax through the said pretended revised or amended constitution as claimed, but reiterates its averment that the said amended or revised constitution was and is wholly invalid, illegal and inoperative, for each of the several reasons hereinbefore set forth.

This defendant denies that the levy of a tax of 15 cents *per capita* for general purposes, and of ten cents *per capita* for the support of the orphans' home, was reasonable, or such as was necessary for the objects thereof, as alleged, notwithstanding the fact that said assessment was at the same rate as that

43 fixed by the annual meeting in 1898. As to the assessment for general purposes, the report of the treasurer at the meeting in 1899 shows that there was left in the treasury an unexpended balance of over \$19,000.00, after discharging all debts and liabilities; the record further shows that the national council has an income of upwards of \$6,000.00 per annum derived from the sale of charters and supplies, while the proceedings of the same session show that the total estimated expenses for the then ensuing year were but \$28,000.00, leaving only about \$3,000.00 to be provided for, while a *per capita* tax of 15 cents on the 183,000 members then reported would yield a revenue of

\$27,450.00, the several sums together aggregating nearly double the amount of the estimated expense of the order for the then ensuing year, which said estimated expense was fully as large as the experience of the order in preceding years could by any possibility justify. With regard to the assessment for the orphans' home, the assessment of ten cents *per capita* levied the preceding year was in connection with the establishment of the said home, the same having been authorized as an object only at the session of 1897, and the said levy is incapable of being taken as a measure of the annual cost of maintenance; the proposed levy of ten cents *per capita* would yield a total of \$18,300.00, which, the total number of orphans as shown by the report of the Minneapolis session being only 84, would aggregate the sum of nearly \$220.00 for each orphan, or about three times the average expense *per capita* in other institutions of the kind.

8. This defendant admits that, as the only means left it for the preservation of its rights, and of the rights of the membership of the order composing the subordinate councils within its jurisdiction, it did pass a resolution against payment of the said proposed assessment of a *per capita* tax until a special session of the national council, called for by it, should be held to correct the unconstitutional and revolutionary proceedings attempted at the Minneapolis session among which is especially enumerated the following:

(1.) The formation of an endowment rank or insurance association, tending to make the order an insurance company, rather than a patriotic order.

(2.) The radical and complete changes in the laws, the rescinding of the decisions of the national council, and the passage of obnoxious and untried laws, said former laws being the fruit of 50 years' experience.

(3.) The unconstitutionality of the new and radical laws, the same not having been ratified by the State councils,

And this defendant further shows to the court that its views and its actions, in this regard, were shared and followed by the State councils of New York, New Jersey, Pennsylvania and Virginia, comprising fully two-thirds of the membership of the entire order, and which had contributed more than two-thirds to the acquisition of the entire property of the order, including its orphans' home, the said property aggregating a large amount, to wit, more than \$62,000.00, in which property this defendant and its said sister State councils, as they are advised and believe, have vested rights.

9. This defendant admits that one Charles Reimer, claiming to be national councilor under election of the faction represented by the complainant in this suit, but upon whom, neither as such official nor otherwise, has any authority to that end been conferred by either the constitution or the laws of the order, as is alleged in the ninth paragraph of the bill, did prefer charges against this defendant before a body attempted to be created by the said Minneapolis proceedings, but which had no previous existence, and which as this

defendant is advised and believes, and therefore avers, is still without any legal existence because of the several matters and things hereinbefore set forth, a copy of which charges is hereto annexed, marked Defendant's Exhibit "A" and prayed
 45 to be read as a part hereof. Prior to preferring the said charges, the said Charles Reimer, without any authority so to do, conferred either by the constitution or laws of the order, or by the new constitution and laws attempted to be substituted therefor by the Minneapolis proceedings, or in any other manner, and at a time when this defendant was in no default in the payment of its taxes, or in any other respect, and without any notice to this defendant or opportunity to it to be heard, assumed to declare its charter suspended, as per his proclamation to that effect, a copy whereof is herewith filed, marked Exhibit "B" and prayed to be read as a part hereof. This defendant denied, and still denies, the power or jurisdiction of the so-called national judiciary to try any of the matters and things alleged in the petition or charges of the said Reimer, and its power to revoke the charter of this or any other State council. Insubordination, the offence with which this defendant was charged, is defined in the so-called new constitution, in article 15, section 2, as being "any attempt upon the part of a State council to enforce any law or constitutional provision in conflict with the supreme law;" and the said offence is declared to be "punishable as the national council may by law provide," no penalty for the said offence having ever been provided therefor by said national council, and no attempt by this defendant to enforce any law or constitutional provision in conflict with the supreme law being charged against it in the petition of said Reimer, or elsewhere.

The only grounds provided, even in the so-called new constitution and laws, for the revocation of the charter of a State council are, first, section 8 of chapter 1 of division IV of national laws (Complainant's Exhibit "C," page 54), providing for revocation in case the number of councils within the jurisdiction of a State council should become
 46 reduced to a number less than that required for its institution, which is not charged against this defendant; secondly, section 2 of chapter 21 of division I of said national laws (Complainant's Exhibit "C," page 40), in case a body shall manufacture or obtain any of the supplies prescribed for use in the order from any other source than from the national council, which offence is not charged against this defendant; thirdly, section 2 of chapter 3 of division III, (Complainant's Exhibit "C," page 50), for refusal to abide by or perform a decree or judgment of the national judiciary, with which offence this defendant has not been charged, and fourthly, section 7 of chapter 1 of division VI (Complainant's Exhibit "C," page 69), for resisting or wilfully obstructing the execution or enforcement of any judgment, mandate or decree of the national judiciary, or of a State judiciary, or aiding or abetting another in so doing, with which offence this defendant has not been charged.

Further, even if this defendant had been charged, and convicted,

of any, or of all, of these offences, the national judiciary would be without jurisdiction to revoke its charter, section 16 of article 10, national council constitution, page 18 (Complainant's Exhibit "C"), providing that the national judiciary shall have the power to revoke charters only in a manner to be provided by law, and no such manner having been provided by any law of either the national council or of the order.

Nevertheless, although the only charge against the defendant was an offence of which it was not guilty, and although it was charged with no offence for which its charter could be revoked, and although no procedure had been provided by law as required to enable the national judiciary to revoke a charter even where the offences so punishable had been established, the national judiciary undertook to try this defendant upon the charges preferred by the said Reimer;

47 but, instead of trying the said charges, or of finding the defendant either guilty or innocent thereof, or of acquitting or convicting it, the said national judiciary, abdicating its so-called judicial functions, and assuming those of a legislative or autocratic body, proclaimed that certain officers of this defendant should, within a time therefor by it limited, namely, on or before the fifteenth day of January, 1900, pay to the national council the amount of *per capita* tax levied upon the District of Columbia, the obligation or non-obligation to pay which did not enter into nor form any part of the proceedings in the so-called trial, and that in default of their so doing, its charter should be revoked, notwithstanding the further fact that the causes for which charters might be revoked were specifically provided in the so-called new constitution and laws, among which causes failure to pay *per capita* tax is not included, and notwithstanding the further fact that neither the so-called new constitution or any of the proceedings of the Minneapolis session undertook to confer upon the national judiciary power to enact penalties or to perform any functions other than those of a judicial and not a legislative character, the said new constitution, by paragraph 8, section 15 of article 7, on the contrary, expressly reserving to the national council the power "to define offences against the supreme law, and to provide penalties therefor."

Thereafter, to wit, on the twenty-seventh day of January 1900, without any notice to the defendant, and without any charges being preferred against it, and without any conviction or pretended conviction of it upon any charges or accusation of any offence, the said national judiciary, of its own motion, undertook to revoke the defendant's charter and to confiscate its property, which action, as this defendant is advised and believes, and therefore avers, was wholly beyond its jurisdiction or authority, and was and is utterly null and void.

48 10. This defendant denies that its charter was suspended as claimed in the bill in this cause, for the reason, first, that there was no power under the constitution or the laws of the order under which the alleged national councilor was authorized or em-

powered to suspend the said charter, and upon the further ground that even had there been such authority or power under the constitution or the laws, the said pretended act of suspension was made at a time when this defendant was in no default in the payment of any *per capita* tax, or in any other respect, and was further made without any charges having been preferred against it or notice of any such attempted action having been given to it, or any opportunity of being heard. The said pretended order of suspension was made on or before September 14th, 1899, while the earliest date on which this defendant was required to pay any *per capita* tax even by the new constitution and laws was the fifteenth day of October, 1899.

At the time of the said pretended order of suspension, there were 20 subordinate councils in the District of Columbia, having a total membership of more than 1800 members. Four of said councils, representing a total membership of about 400 members, were prevailed upon illegally by said Reimer during the period of said alleged suspension, and under claim and pretense that this defendant was no longer in existence as the rightful State council for the District of Columbia, to pay *per capita* tax to the alleged national council as aforesaid. One of the said four subordinate councils, however, namely, American Council No. 54, having a membership of about 97, upon being advised of the true situation of affairs, has refused to pay further *per capita* tax to the complainant, and has returned to full affiliation with and support of this defendant, while nearly 100 other members, constituting a part of the 400 above referred to, have withdrawn from their several subordinate
 49 councils and organized a new council, namely, Capital Council No. 25, which is in full affiliation, sympathy and co-operation with this defendant.

11. Answering the eleventh paragraph of the bill, this defendant denies,

First. That the complainant had power or jurisdiction to revoke the charter of this defendant, and avers that the eleventh paragraph of the fifteenth section of the seventh article of the so-called constitution and national laws referred to in said eleventh paragraph is a part of the revolutionary, unconstitutional and void proceedings of the Minneapolis meeting, hereinbefore referred to, and without any legal validity or existence, because of the several fatal defects, usurpations and violations of the charter, constitution and laws hereinbefore referred to, as well as of others apparent upon the proceedings as shown by Complainant's Exhibit "C," from which it will appear that the said alleged meeting, not content with having altered the objects and laws of the order in violation of its charter, constitution and laws, and with having created new and unheard of offices, with new and unheard of powers, and with having divided the said offices and powers up among themselves and their confederates, further attempted, in order to avoid being called to account for their said proceedings by the order, to establish themselves perpetually in power by so changing the basis of

representation in the national council by reducing the number of representatives from the State councils as to create a gross inequality of representation, and as to constitute a fraud upon the order. Under the constitution and laws as existing prior to the Minneapolis meeting, the State councils of New York, Pennsylvania, New Jersey, the District of Columbia and Virginia, comprising about 125,000 of the 183,000 members of the order, were entitled to 59 representatives, which number was reduced to 28, while the remaining States and Territories, aggregating about 65,000 members, were allowed 103 representatives. The States of Alabama, Kansas, Michigan, Minnesota, Montana, Nebraska, Oregon, Texas, Washington and Wisconsin, representing a total membership of 2,264, are given 30 representatives, while the five State councils above mentioned, having more than fifty times the membership of the said ten enumerated States, are reduced to 28 representatives.

In the second place, this defendant denies, even if the complainant had the power to pass the decree revoking this defendant's charter, that it ever did in fact do so, but avers that the said pretended decree of revocation was the act, not of the national council, but of the so-called national judiciary, a mere committee, two of whom were the appointees of the alleged national councilor and the remaining one of whom was the appointee of a certain board of officers of the complainant, the said national judiciary having had no existence prior to the Minneapolis meeting, nor under any constitution, contract or agreement to which this defendant was ever a party, nor to which it has in any manner assented; and, in the third place, it avers that, even if the said national judiciary, and the said eleventh paragraph of the fifteenth section of the seventh article of the constitution and national laws, had any legal existence, the national council has never exercised the power "to provide by law," for the revocation or suspension of the charters of any State councils, the alleged suspension of this defendant's charter by the person claiming to be national councilor being his individual act, and the so-called decree of the national judiciary being its arbitrary act, neither of which acts was pursuant to nor under color of any law provided by the national council, or otherwise.

12, 13. This defendant, according to its best information and belief, denies that the complainant made the demand upon it for surrender of its property as set forth in the twelfth paragraph of the bill, and avers that the said demand was made by the so-called national councilor, of his own motion, and without any vote or other action to that end by the national council. It admits that it has refused to surrender its moneys and other properties to the said national councilor as it is advised and believes it had, and has, a just right to do. It concedes, also, that it has never admitted the validity of the changes in the objects of the order, or of the innovations in its principles, constitution and laws, or of the attempted usurpation of the rights and privileges of the State

and subordinate councils, and of the members, attempted to be effected by and through the said Minneapolis proceedings, but, on the contrary, it has favored a special session of the national council either to repudiate the said several irregular and unlawful acts, or to ratify and confirm them in some legal and sufficient manner, as the order might elect to do; and it submits to the court whether its action, or that of the complainant, is justly open to the charge set forth in the bill of tending to "subvert all law and authority in the order," and as being in opposition to its laws and the constitutions of the State and national councils. It denies that its conduct is detrimental to the welfare and interests of the order, or that its action constitutes a wrong or fraud against either the national council or the members of the order as alleged, and submits to the court whether it, or the complainant, is more justly chargeable in a court of equity with the various offenses against the order and the rights of its members therein set forth. This defendant, neither now nor at any other time, has claimed or attempted to exercise any right of disobedience to the national council, proceeding in accordance with its charter, constitution and laws;

52 but, as it is advised and believes, and therefore avers, the said national council is without right in law or standing in a court of equity, itself to transgress the plain spirit of the charter, constitution and laws of the order, as well as their letter, for the purpose of evading the limitations imposed by the constitution upon its own powers, of depriving the members of the order of the rights of privilege and property guaranteed to them by the charter, constitution and laws under which they were invited into membership, and of perpetuating itself in its usurped power and authority by the inequitable, unreasonable and unconscionable proceedings hereinbefore set forth. This defendant has never consented to, nor in any manner acquiesced in, the said unlawful changes attempted to be made in the objects and principles of the order, nor in its constitution or laws; and, as it is further advised and believes, and therefore avers, the complainant is without standing in any court, either of law or equity, to demand possession of the property and effects of this defendant, or to interfere with the exercise of its rights and privileges, to all of which it is entitled by virtue of its incorporation under the laws of the District of Columbia, and to which it is further entitled under its contract charter from the national council, under the facts and circumstances, as they now exist, as hereinbefore set forth.

And, having fully answered, this defendant prays to be hence dismissed with its reasonable costs.

(Signed)

JOHN E. CRAMPTON.

C. M. BIGELOW,

J. J. DARLINGTON,

*Sols. for Def't, State Council of the District of Columbia,
Junior Order of United American Mechanics.*

34 NATIONAL COUNCIL, J. O. U. A. M. OF U. S. N. A., ETC., VS.

53 DISTRICT OF COLUMBIA, ss :

I, John E. Crampton, under oath say that I am the councilor of the defendant State Council of the District of Columbia, Junior Order of United American Mechanics, in which capacity I have signed the foregoing answer on behalf of said defendant; that I have read the said answer and know the contents thereof; that the matters and things therein set forth upon personal knowledge are true and that those set forth upon information and belief I believe to be true.

JOHN E. CRAMPTON.

Subscribed and sworn to before me this 31 day of January, 1901.

JOHN R. YOUNG, *Clerk*,
By M. A. CLANCY, *Ass't Clerk*.

DEFENDANT'S EXHIBIT "A."

Filed January 31, 1901.

"To the national judiciary :

The petition of Charles Reimer, respectfully presents,"

"That the State Council, District of Columbia, Jr., O. U. A. M., at its session in the city of Washington, D. C., on the 14th day of August, 1899, adopted the following recommendations of its secretary, Wm. L. Boyden, and resolution: "

54 "(See page 14, State Council secretary's report and copy of letter from Wm. L. Boyden, S. C. sec'y, to Edward S. Deemer, N. sec'y, dated Washington D. C., August 21, 1899, under the seal of the State Council of the D. C.)"

"That said action of the State council has been officially promulgated and published to the order at large."

"That by reason of said foregoing action of said State council petitioner charges said State council with insubordination, rebellion, inciting rebellion, attempting to disrupt and destroy the order, and violation of obligation and laws of the order."

[SEAL.]

CHAS. REEMER,
National Councilor.

Supplementary Petition.

Charles Riemer, National Councilor, Jr. O. U. A. M. The State Council of the District of Columbia, Jr. O. U. A. M.

Before the National Judiciary, Jr. O. U. A. M.

The national councilor, Charles Reimer, herewith files supplementary petition in above case as follows:

1st. That the State Council of the District of Columbia, in session at Washington, D. C., on the 14th day of August, 1899, adopted the recommendations and resolutions, copies of which are herewith attached and made part hereof marked "Exhibit A," as certified by the letter hereto attached and made part hereof, marked "Exhibit B."

2d. That by reason of the foregoing action the State council wilfully violated the following laws of the order, viz: National laws, division 1, chapter 21, section 1, and the enactment of the national council at its recent session at Minneapolis, Minn., imposing the national council *per capita* tax of fifteen cents per member.

3d. That the said foregoing action is an attempted nullification by said State council of the authority of the national council and its officers to levy and collect said tax, in violation of the laws of the order, and its obligations.

4th. That by reason of the said foregoing action, other councils and State councils of the order, and the members thereof are incited to commit the same or similar offences against the order, and is thereby guilty of insubordination against the laws and lawful authorities of the order.

5th. Petitioner therefore prays, for such relief, as by this court is deemed just and lawful.

CHAS. REIMER.

Petitioner hereby certifies upon honor the statements contained in the foregoing petition are correct and true as he verily believes.

[SEAL.]

CHAS. REIMER.

EXHIBIT "A."

Recommendations.

I would recommend that the following be considered grievances which this State council suffers at the hands of the national council:

1. The heavy *per capita* tax of twenty-five cents per member which makes it necessary for the State council to increase the subordinate council tax.

2. In addition to the above tax the levying of a special tax by charging a twenty per cent. advance on supplies purchased from the national council by the subordinate councils, to which is
56 added the cost of expressage or postage.

3. The additional expense to the State council by reason of the fact that orders for supplies by the subordinate council- are required to be sent, first to the State Council secretary, who must transmit them to the national secretary; thus entailing expense for postage and expressage, paper and envelopes, opening accounts with the councils and with the national council, as well as placing much additional labor on the State Council secretary.

4. Abridging the rights of the State council and of the subordinate councils, by making the councils procure such supplies as application blanks and cards or papers affecting membership from the national council, which national council charges said councils the above mentioned advance of twenty per cent. and expressage, the right to purchase such printing, being undeniably the right and privilege of a subordinate council.

5. The employment and heavy expenses incident thereto, of national and special organizers, who do little or no organizing, the expenses of which, however, must be borne in part by this State council.

6. The annual agitation of a change of ritual, and the expenses incident thereto.

7. The large sums of money voted for the periodicals each year.

8. The forming of an endowment rank, or insurance association, tending to make this an insurance company, rather than a patriotic order.

9. The election and appointment as officers and committees
57 of the national council, of past national councilors, past State councilors, and past national representatives, instead of national representatives, making the national council thereby, a non-representative body.

10. The radical and complete changes in the laws and the rescinding of the decisions of the national council, and the passage of obnoxious and untried laws, said former laws being the fruit of fifty years' experience.

11. Allowing State councils to owe any amount of money for supplies, but disbarring them from all rights and privileges, if they owe one cent for *per capita* tax.

12. Agreeing to pay the expenses of the national representatives to the annual session, when to do so means an increase in the *per capita* tax.

13. The enormous expense to the State and subordinate councils to prepare and print new laws in conformity with the new laws of the national council.

14. The expense of a supreme judiciary when the comparatively few cases that come before it do not justify it.

15. The unconstitutionality of the new and radical laws they not having been ratified by the State councils.

Resolved, That in view of the above-mentioned grievances, this State council hereby calls for a special session of the national council to right them, and that until the same is done, it respectfully but firmly refuses to pay any *per capita* to said national council.

Resolved, further, That this State council hereby calls upon its sister jurisdictions to take the same action.

Fraternally submitted.

WM. L. BOYDEN,
State Council Secretary.

58

EXHIBIT "B."

WASHINGTON, D. C., *August 21, 1899.*

Edward S. Deemer, Esq., national secretary, Jr. O. U. A. M.

DEAR SIR AND BROTHER: In accordance with the actions of this State council which unanimously adopted the enclosed recommendations and resolutions of the State Council secretary, I send them to you for presentation to the national council.

Fraternally,
(Signed)

WM. L. BOYDEN,
State Council Secretary.

{ Seal of the State Council, District of Columbia, }
Jr. O. U. A. M.

Before the National Judiciary, Jr. O. U. A. M.

CHARLES RIEMER, National Councilor,
vs.
THE STATE COUNCIL OF THE DISTRICT OF COLUMBIA. }

National Council, Junior Order United American Mechanics, Office
of the National Secretary.

PHILADELPHIA, PA., *September 14, 1899.*

To whom it may concern:

Your attention is called to the following:

59 "As a result of the action of the State Council of the District of Columbia adopting certain recommendations of its secretary, Wm. L. Boyden, at its session held in the city of Washington on the 14th day of August, 1899, I have preferred charges of insubordination, rebellion, etc., against the said State Council of the District, before the national judiciary, and pending the trial of said charges, I hereby declare the charter of the said State council suspended.

"You will give notice of the above action to the said State council and to all subordinate councils in the District of Columbia, and after having done so, cease to hold further communication with the said State council."

By order of the national councilor.

Attest:

[SEAL.]

EDW. S. DEEMER,
National Secretary.

60

Answer of Defendants Nos. 2, 3, 4, 5, & 6.

Filed January 31, 1901.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Separate Answer of Defendants John E. Crampton, Clifton M. Bigelow, George Keithley, William L. Boyden, and Dwight M. Weeks.

The defendants John E. Crampton, Clifton M. Bigelow, George Keithley, William L. Boyden and Dwight M. Weeks, for answer to the bill of complaint in the above entitled cause say they have read the answer of their co-defendant The State Council of the District of Columbia, Junior Order of United American Mechanics, and know the contents thereof; that the allegations of the said answer are in all respects in accordance with their individual knowledge, information and belief, severally, and they adopt the said allegations as their answer to the said bill.

JOHN E. CRAMPTON.
CLIFTON M. BIGELOW.
GEORGE KEITHLEY.
WILLIAM L. BOYDEN.
DWIGHT M. WEEKS.

DISTRICT OF COLUMBIA, ss:

61 We, John E. Crampton, Clifton M. Bigelow, George Keithley, William L. Boyden and Dwight M. Weeks, on oath say that we have read the foregoing answer by us subscribed and know the contents thereof, that the allegations therein contained as

of our personal knowledge are true, and that those set forth upon information and belief we believe to be true.

JOHN E. CRAMPTON.
CLIFTON M. BIGELOW.
GEORGE KEITHLEY.
WILLIAM L. BOYDEN.
DWIGHT M. WEEKS.

Subscribed and sworn to before me this 31st day of January, 1901.

J. R. YOUNG, *Clerk*,
By M. A. CLANCY, *Ass't Clerk*.

Replication.

Filed March 5, 1901.

In the Supreme Court of the District of Columbia.

NATIONAL COUNCIL, JR. O. U. A. M.,	} No. 21890. In Equity.
vs.	
STATE COUNCIL, SAME ORDER, ET AL.	

The complainant joins issue with the defendants upon their answers.

GEO. FRANCIS WILLIAMS,
A. W. SHUNK,
W.,
Solicitors for Complainants.

62

Stipulation.

Filed May 2, 1902.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the U. S. of N. A.	} No. 21890. In Equity.
vs.	
THE STATE COUNCIL OF THE DISTRICT OF Columbia, of the Same Order, <i>et al.</i>	

It is hereby stipulated and agreed by and between the solicitors for the respective parties to the above entitled cause that the paper-writing entitled in this cause, marked "Exhibit X" and for further identification subscribed by the solicitors for complainant and defendants, and hereunto annexed, may be given and read in evi-

dence in this cause as correctly setting forth the facts it purports to set forth, except as expressly denied herein and in said "Exhibit X," and particularly as showing the recorded entries or minutes in the official record of the proceedings of the National Council of the Junior Order of United American Mechanics as the same appear in the published reports of the proceedings of said national council relating to amendments of the constitution, general laws and objects of said order proposed and acted upon.

It is further stipulated and admitted that the law committee, to whom the general laws, constitution of the national council, and of subordinate councils under the jurisdiction of the national council, were referred for general revision at the annual session of the
 63 national council held in 1898 (see page 23 of Exhibit X,) caused to be printed a report of their action and recommendations dated April 14, 1899, a copy of which entitled "Report of law committee," is hereunto annexed marked "Complainant's Exhibit Y."

The defendants, however, deny:

First. That the national council had any lawful right or power to refer the constitution and general laws to said committee for "general revision."

Second. That said committee had any power, by virtue of said reference or otherwise, to effect radical and fundamental changes in the constitution, general laws and objects of the order, freed from the checks and restrictions preserved to the subordinate councils, State councils, and members, by the constitution itself, or that the national council could by said reference do indirectly what it was the very purpose and object of the constitution to prohibit it from doing, except subject to said checks and restrictions.

Third. That the alleged action of the national council on said report resulted in any valid change of the constitution, general laws, or objects of the order of the character claimed by the complainant in this controversy.

It is further stipulated that complainant and defendant may treat as in evidence and refer to at the final or any other hearing in this cause said report of the law committee, the national council constitution, general laws and objects of the order, in force up to and during a part of the third day at least, of said Minneapolis session (pages 1 to
 71, Exhibit E to the bill) and pages 7 to 70 of the "Appendix"
 64 to Exhibit C to the bill, (Proceedings of Minneapolis Session, 1899) said "Appendix" being entitled "Laws as amended and corrected," the defendants expressly denying that said "Laws as amended and corrected" were legally adopted, for the reasons set up in the answer.

It is further stipulated that the complainant may give in evidence the proceedings of the third day (June 22, 1899) of said Minneapolis session, as the same appear on pages 114, 115, 116, 117 and 118, down to report of ritual committee, as the same are published in said Exhibit C, same being the proceedings relating to the re-

port of said law committee and the alleged adoption of said constitution and general laws pursuant thereto, and may also give in evidence the report of the finance committee and the action thereon, including the fixing of rate of *per capita* taxes for the ensuing year 1899-1900, as published on pages 107 to 112 inclusive of said Exhibit C.

All objections and questions raised by the defendants in their answers to the validity of the alleged revised constitution, general laws and objects of the order, claimed by the complainant to have been declared adopted at the Minneapolis convention or session of 1899, and to the action and proceedings of said Minneapolis convention or session, and that held at Philadelphia in 1900, and to all proceedings by the complainant, or its officers in consequence, or in furtherance of any alleged enactment, action or proceeding of either of said sessions, are reserved to the defendants and are in no wise effected by this stipulation.

65 The complainant contends that the new constitution and laws went into effect (as provided therein) immediately upon their alleged adoption on the third day of the Minneapolis session. The defendants deny that said new constitution and laws were ever validly adopted at all.

GEO. FRANCIS WILLIAMS,
A. W. SHUNK,
Solicitors for Complainant.
C. M. BIGELOW,
J. J. DARLINGTON,
Solicitors for Defendants.

EXHIBIT "X."

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the U. S. of N. A.	} No. 21890. In Equity.
vs.	
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Same Order, <i>et al.</i>	

The Junior Order of United American Mechanics is a patriotic, fraternal, beneficial, secret order, organized and working in a majority of the States and Territories of the United States and in the District of Columbia, and in June 1899, had over one hundred and eighty-three thousand (183,000) members. The order consists of a national council, 32 State councils (each taking the name of the State in which it exists) and about 2200 councils.

66 From 1891 up to June 1894, the provisions of the constitution of the national council relative to amendments thereto and to the general laws and objects of the order were as follows:

ARTICLE XXII.

Amendments.

This constitution or the general laws of the order shall not be altered or amended except by a majority vote of the members present at a regular session of this national council, or a special session called for the purpose, provided all alterations or amendments proposed shall be in writing, signed by two or more members of the national council, and shall be referred to the committee on law before final action is taken thereon.

All such proposed alterations or amendments shall be examined by the committee on law and reported to the national council at its next session, together with such further amendments and recommendations as may be deemed necessary to preserve the consistency and sense of this constitution and the general laws.

The action and recommendations of the committee shall be published at least thirty days prior to the next session of the national council, when final action may be taken. (General Laws, page 54.)

ARTICLE II.

Objects.

SEC. 1. The objects of this order shall be :

First. To maintain and promote the interests of Americans, and to shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and uphold the reading of the Holy Bible therein.

SEC. 2. The objects of this order shall not be altered unless proposed in writing, and if adopted, the alteration shall be submitted to the members of the order for a vote thereon, and if approved by a majority vote, the alteration shall become a part of this constitution.

ARTICLE XXI.

Resolutions, etc.

Any resolution, proposition or recommendation relating to or affecting the principles or the objects of the order, submitted to the national council for adoption or endorsement, must be in
67 writing and signed by one or more members, and shall be referred to the judiciary committee. All such propositions, resolutions or recommendations shall be considered by said committee and reported in writing to the national council previous to final adjournment of the session.

Nothing in this article shall be construed to permit the alteration or amendment of the objects, nor any portion thereof nor this constitution, nor the general laws of the order in any other manner than that prescribed in this constitution.

ARTICLE XVIII.

Committees.

SEC. 4. The judiciary committee shall examine any and all resolutions, recommendations, or other propositions bearing on or affecting the objects and principles of the order, which may be offered in the national council for endorsement or adoption. They shall report all such resolutions, recommendations and propositions back to this national council, previous to the final adjournment of the session, with such recommendations, as in the opinion of the committee, the exigency warrants. Reports, recommendations, etc., of the judiciary committee shall be made in writing.

SEC. 5. The committee on law shall examine and formulate all proposed alterations or amendments to the constitution of the national council or the general laws, and in their report suggest such further changes or corrections as may be deemed necessary to preserve the harmony and sense of said constitution and laws.

ARTICLE X.

National Councilor.

The national councilor shall preside at all meetings of the national council, and enforce the laws thereof. During the recess, he shall have the general superintendence of the order, with power to grant dispensations to State councils or subordinate councils under the jurisdiction of the national council, when the good of the order may require, except a dispensation to dispense with any of the objects of the order, the admission of persons not qualified to membership, and the use of regalia.

GENERAL LAW XXVII.

Misrepresentation of Objects.

Any member or council of this order who shall in any manner, way or form, directly or indirectly, in or out of the council chamber, at any public or private meeting of any kind whatever, whether called or held by members of this order or otherwise, change, alter, modify, add to, omit from, or misrepresent any of the principles or objects of this order, or any part of the ritual, shall, at the
68 next ensuing session of the national council of this order, upon proof of such change, alteration, modification, addition, omission, or misrepresentation be expelled from this order, and the charter of such council declared forfeited.

General law 20 in force during that time prescribes what the regalia of the order shall be. Section 10 thereof provides as follows :—

SEC. 10. The law in reference to regalia shall not be altered by decision or otherwise, unless the proposed alteration be submitted to a vote of the members of the order, and a majority of the vote given in favor of such alteration.

* * * * *

69 (The following provisions of said national council constitution and general laws relative to amendments thereto, and to the objects of the order, were in full force from the time of their adoption in June 1894 up to and during a part of the third day, at least, of the session of the national council at Minneapolis, June 19–23, 1899, when the alleged new constitution and laws are claimed by the complainant to have been adopted), pursuant to the constitution and laws of the order then in force, including the following provisions. The defendants deny that said new constitution, laws and objects were adopted pursuant to the constitution and laws of the order then in force, or that any valid changes were made in the said national council constitution, general laws or objects of the order then in force, of the character claimed by the complainant in this cause, for the reasons set up in the answer.

Adopted in 1894 and in force up to and during a part of the third day, at least, of the Minneapolis session of 1899.

CONSTITUTION, ARTICLE XXV.

Alterations.

70 SECTION 1. This constitution or the general laws of the order shall not be altered or amended oftener than once in five years, unless by a two-thirds vote of the members present at a regular session of this national council, or a special session called for the purpose; provided all alterations or amendments shall be in writing, signed by two or more members of the national council, and shall be referred to the committee on law before final action is taken thereon.

SECTION 2. All proposed alterations or amendments shall be examined by the committee on law, and reported to the national council at its next session, together with such further amendments and recommendations as may be deemed necessary to preserve the consistency and sense of this constitution and the general laws, provided that when the national council refers the general laws or constitution of the national council to a committee for revision, such reference shall be sufficient notice of any proposed alteration or amendment.

SECTION 3. The action and recommendations of the committee shall be published at least thirty days prior to the next session of the national council, when final action may be taken.

CONSTITUTION, ARTICLE II.

Objects.

SECTION 1. First. To maintain and promote the interests of Americans and to shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and uphold the reading of the Holy Bible therein.

SECTION 2. The objects of this order shall not be altered, unless proposed in writing, and if adopted, the alteration shall be submitted to the members of the order for a vote thereon, and shall be of no effect unless approved by a majority vote.

CONSTITUTION, ARTICLE XXIII.

Resolutions, etc.

Any resolution, proposition or recommendation relating to or affecting the principles, or the objects of the order submitted to the national council for adoption or endorsement, must be in writing and signed by one or more members.

Nothing in this article shall be construed to permit the alteration or amendment of the objects, nor any portion thereof, nor
71 this constitution or the general laws of the order in any other manner than that prescribed in this constitution.

Constitution, article 10, prescribing the duties of the national councilor, is as follows:—

The national councilor shall preside at all meeting- of the national council, and enforce the laws thereof. During the recess he shall have the general superintendence of the order with power to grant dispensations to State councils or subordinate councils, under the jurisdiction of the national council, when the good of the order may require, except a dispensation to dispense with any of the objects of the order, the admission of persons not qualified to membership, the general laws, and the use of regalia.

GENERAL LAW XXXII.

Misrepresentations of Objects.

Any member or council of this order who shall wilfully in any manner, way or form, directly or indirectly, in or out of the council chamber, at any public or private meeting of any kind whatever, whether called or held by members of this order, or otherwise, change,

alter, modify, add to, omit from, or misrepresent any of the principles or objects of this order, or any part of the ritual shall, after due trial by the next higher body, if found guilty, if a member, be expelled, and if a council, its charter shall be declared forfeited.

CONSTITUTION, ARTICLE IV.

Membership.

SECTION 1. This council shall be composed of the officers hereinafter mentioned, five representatives from each State council where the membership in such State does not exceed five thousand, and an additional representative for every additional three thousand members or majority fractional part thereof; all past national councilors in good standing, and one representative from each State
72 under the jurisdiction of this national council, who shall be a past councilor in good standing, who shall be elected annually, provided that no State without a State council shall be entitled to a representative, unless there are four councils in said State; also all past State councilors in good standing, and there shall be no representation by proxy.

CONSTITUTION, ARTICLE XXII.

Debate.

This council shall be governed in debate and in the transaction of business by Mathias' Manual, where there is no law of the order to the contrary.

(Mathias' Manual, page 34, note, is as follows:)

"A division may be taken on the call of one member, but to take the yeas and nays requires that call to be seconded or made by two members."

Of the Yeas and Nays.

In announcing that the yeas and nays are ordered to be taken the president should say: "The yeas and nays are required by Mr. —, and Mr. —. The secretary will call the names of the members." (Mathias' Manual, page 112.)

General law 9 provides what the regalia of the order shall be. Section 10 thereof is as follows:

"The law in reference to regalia shall not be altered by decision or otherwise, unless the proposed alteration be submitted to a vote of the members of the order, and a majority of the vote given in favor of such alteration."

The subordinate councils are the foundation of the order; all members enter the order through them; they support the entire order, including the State councils and the national council; they are the only bodies of the order that pay either sick or death benefits, or bury deceased members.

73 The Junior Order of the United American Mechanics was organized May 17, 1853, in Pennsylvania, and on March 13, 1860, the councils in that State formed the State Council of Pennsylvania. Subsequently councils were organized in Delaware, which formed the State Council of Delaware, and in New Jersey, which formed the State Council of New Jersey.

On September 30, 1869, representatives from each of these three States, Pennsylvania, Delaware and New Jersey, met in convention in Philadelphia and organized the national council, which on that date adopted a constitution.

All the State and subordinate councils had the same "Objects of the order," which were carried into the constitution of the national council upon its organization.

The "Objects of the order" were set forth in section 1, article 2, of this constitution of the national council, as follows:

ARTICLE II.

Objects.

SECTION 1. The objects of this order shall be:

First. To maintain and promote the interests of the American youth, and shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To prepare the youths of America to become members of the Order of United American Mechanics when they arrive at the proper age.

Section 2 of the said article 2, provided as follows:—

74 "SECTION 2. The objects of this order shall not be altered unless proposed in writing at a previous stated meeting, and a copy of the said alterations be transmitted to each member of this body, and if adopted, the alteration shall be submitted to the members of the order for a vote thereon, and if approved by a majority, the alteration shall become part of this constitution."

* * * * *

At the time of the organization of the national council, all the State and subordinate councils had the same general law in reference to regalia, which prescribed what the regalia of the order should be.

Section 8 of said general law provided as follows:

"The law in reference to regalia shall not be altered by decision or otherwise, unless the proposed alteration be submitted to a vote of the members of the order, and a majority of the vote given in favor of such alteration."

This provision was carried into the general laws of the order, as

section 11, general law 22, adopted by the national council upon its organization.

Ever since the organization of the national council in 1869, its constitution has contained a provision requiring all alterations in the objects of the order adopted by the national council to be submitted to the members of the order, and approved by them before becoming valid or effective; and the general laws of the order have always contained a provision against altering the law in reference to regalia, unless the proposed alteration be submitted to the vote of the members of the order, and a majority of the vote be given in favor of such alteration.

At the Minneapolis session, June 20-23, 1899, the complainant National Council claims a new constitution and laws were adopted, and certain changes in the objects of the order and in the law in reference to regalia were effected at said session, and that the above mentioned provisions requiring an alteration in the objects, and an

75 alteration in the law in reference to regalia, to be submitted to the members of the order for a vote, and their approval thereof by a majority vote before an alteration in either shall become effective, were repealed. The defendants deny the validity of these changes for the reasons set up in this stipulation and in the defendants' answers.

The following are all the alterations in the objects of the order that had been made up to the session of the national council at Minneapolis, June 19-23, 1899.

At the session of the national council held in Richmond in 1880, P. S. C. Adams of New Jersey, offered the following, which were laid over. ("Laid over" meaning postponed to the next session.)

In the first object of our order, strike out "American youth" and substitute "Americans."

Resolved, That we strike out the fifth object of our order. (Proceedings, 1880, page 263.)

Representative Tuers of New York, offered the following as an additional object, to be known as the sixth.

"To maintain the public school system of the United States of America, to prevent sectarian interference therewith, and to uphold the reading of the Holy Bible therein."

Which were laid over. (Page 268.)

At the next session of the national council at Haverhill, Massachusetts, June 20-21, 1881, the foregoing proposed alterations in the objects of the order were acted upon as follows:

The national council then took up the proposition to strike out the fifth object of the order. P. N. C. Culver in the chair.

National Representative Crum of New Jersey moved to refer the same to the committee on revision of the order. The *ayes* and *nays* were called for by Representatives Gittinger of Maryland, Loew, Stewart and Tuers of New York, and Cambridge of Massachusetts, resulting as follows: *Ayes*, 10; *nays* 22, so the motion was not agreed to.

Representative Tuers of New York, then moved to strike out the fifth object of our order, upon which the ayes and nays were
 76 called by Representatives Buser of Pennsylvania, Tuers, Loew and Stewart of New York, and Elbert of New Jersey, resulting as follows: Ayes 22, nays 9 so the motion was agreed to.

Representative Buser of Pennsylvania moved to refer the matter to subordinate councils for a vote thereon, at the first meeting in October. Representative Loew of New York, moved to strike out "October" and insert "August." N. V. C. Ogle moved to strike out "August" and insert "the last meeting in September." The amendments, "August and October" were both withdrawn and the motion of N. V. C. Ogle was agreed to.

P. S. C. Hayes of New Jersey, moved to appoint a committee to count the vote and declare the result to the order through a proclamation by the national councilor. The national councilor declared the motion out of order on the ground that the national council cannot delegate their authority to another. (Pages 291 and 292.)

The proposition offered at the last session to amend the first object by striking out "American youth" and inserting "Americans" was agreed to.

A new object to be called the sixth:

"To maintain the public school system of the United States of America, to prevent sectarian interference, therewith, and uphold the reading of the Holy Bible therein," which was proposed at the last session was acted upon as follows:

P. S. C. Cambridge of Massachusetts, moved to strike out all after the word "therewith" and insert the word "and" after the word "America."

The ayes and nays were called for by P. N. C. Culver, P. S. C. Greenman of Massachusetts, Sibbs of Pennsylvania, Representative Elbert of New Jersey and Harmer of Pennsylvania, resulting
 77 as follows: Ayes 20, nays 12, so the motion to strike out and insert was agreed to and the new object as amended was also agreed to.

P. N. C. Deemer moved that these two changes in the objects of the order, take the same course as the striking out of the fifth object, which was agreed to. (Page 293.)

At the next session of the national council in New York city, June 20-22, 1892, the national council received and counted the votes of the members on the said proposed alterations in the objects of the order, and each of the same having been approved by a majority vote, thereby became effective. (Proceedings 1882, pages 333 and 334.)

By this action, the fifth object was stricken out and the new object offered as the sixth became the fifth.

At the next session of the national council in Philadelphia, June 19-21, 1883, Representative Elbert of New Jersey offered the following, which was laid over:

"Amend the objects of the order by adding the following to the

fifth object: 'And uphold the reading of the Holy Bible therein.'" (Proceedings 1883, page 360.)

At the next session of the national council at Georgetown, D. C., June 17-18, 1884, the following action was taken: Representative Elbert of New Jersey called up the amendment to the fifth object and "uphold the reading of the Holy Bible therein," and moved its adoption, which was agreed to. (Proceedings of 1884, page 376.)

Representative Elbert of New Jersey moved to submit the amendment to the fifth object to a vote of the members of the order for approval at the last meeting in September, which was agreed to. (Proceedings of 1884, page 377.)

78 At the next session of the national council at Harrisburg, Pennsylvania, June 16-18, 1885, the votes of the members on the foregoing proposed alteration in the fifth object of the order were counted, and the same having been approved by a majority vote, became effective. (Proceedings, 1885, page 413.)

At the session of the national council at Denver, Colorado in 1896, the following amendment was offered, and laid over:

"Amend article II, national council constitution, by adding a sixth object: 'To establish or erect an orphans' home as a home for the orphans of deceased members of the order, and to maintain the same.'" (Proceedings 1896, page 271.)

At the next session of the national council held at Pittsburgh, Pennsylvania, June 15-18, 1897, the following action was taken on the said proposed amendment:

'Amendment to Article II, National Council Constitution, P. S. C. Buser, of Pennsylvania, to Adopt.'

P. S. C. Carson of New Jersey, moved to add to the fourth object the words "orphans' fund."

P. S. C. Carson of New Jersey withdrew his motion, and the motion of P. S. C. Buser of Pennsylvania was agreed to.

P. S. C. Buser of Pennsylvania moved that the last meeting night in September be set apart for the subordinate councils of the order to take a vote thereon, which was agreed to.

N. R. Reynolds of North Carolina, moved that the national council issue a proclamation setting forth the advantages of the home, which was agreed to.

79 P. S. C. Carson of New Jersey, moved to add to law XXXI, section 2, "orphans' home." The national councilor decided that if the new object was approved by the subordinate councils, it would be the duty of the law committee to make such changes in the other laws as would make them conform to the new condition of things. (Proceedings 1897, page 183.)

At the next session of the national council in Louisville, Kentucky, June 21-24, 1898, the national council received the votes of the members of the order, and a majority having approved the new sixth object, it became effective. (Proceedings 1898, pages 94-111.)

The said alterations having become effective, the objects were thereby changed to the following, which were the objects in force from that time up to the Minneapolis session in 1899.

SECTION 1. First. To maintain and promote the interests of Americans and shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America and to prevent sectarian interference therewith, and uphold the reading of the Holy Bible therein.

Sixth. To establish or erect an orphans' home, as a home for the orphans of deceased members of the order, and to maintain the same.

The following are all of the instances in which alterations in the objects of the order, having been adopted by the national council and submitted to the members of the order for a vote, have failed to become effective, the failure in each instance being because of the fact that they were not approved by a majority vote.

At the annual session of the national council at Philadelphia, July 6, 1876, the report of the national councilor to the session, contained the following:

80 "I would earnestly recommend to this national body that the fifth object of the order (to prepare the youths of America to become members of the Order of United American Mechanics when they arrive at the proper age) be stricken out."

The committee, to whom was referred the report of the national councilor, on the same day recommended that the fifth object *to* be stricken out and the following action was taken thereon.

(Page 134 :) The first suggestion (to strike out the fifth object) being read, Representative Harris of Pennsylvania moved that the recommendation be not agreed to.

P. S. C. Sibbs of Pennsylvania, raised the point of order, that under section 2 of article II of the constitution of the national council, the subject could not be considered, which point the national councilor decided was well taken.

P. S. C. Sibbs of Pennsylvania moved to reconsider the vote on P. N. C. Calver's motion to proceed to act upon the suggestions, which was agreed to. On the question being stated, P. S. C. Sibbs of Pennsylvania, moved to strike out and insert "That the report be recommitted to the committee," and that they proceed in accordance with section 2 of article II of the constitution of the national council, which was agreed to.

(Page 136 :) The committee to whom was referred the reports of the national councilor and national secretary as recommitted, presented the same reports with the following amendments in reference to striking out the fifth object of the order.

81 "We suggest that the national secretary be instructed to transmit a copy of the proposed alteration to each member of this body as provided in section 2 of article II of the national council constitution, which was agreed to."

At the next session of the national council at Dayton, Ohio, July 2, 1877, P. S. C. Lewis of Ohio, moved to strike out the fifth object of the order. Representative Harris of Pennsylvania moved to lay the motion upon the table, which was not agreed to. The vote recurring upon the motion of P. S. C. Lewis, the ayes and nays were called by Representatives Gage, Bowen and Sohl, of Maryland, and Badger and De Haven of Pennsylvania, resulting as follows: Ayes 10, nays 11, so the motion to strike out was not agreed to. (Page 157.)

At the next session of the national council at Baltimore, Maryland, June 18, 1878, P. S. C. Adams of New Jersey, offered the following:

Resolved, That we strike out the fifth object of our order, which took the usual course. (Page 182.) (That is, "laid over" until the next session.)

At the session of the national council held at New Brunswick, N. J., June 17, 1879, the said proposed amendment to strike out the fifth object was acted upon as follows:

The proposition to strike out the fifth object of our order was then considered.

Representative Ogle of Maryland, moved that the resolution be adopted, which was agreed to.

National Secretary Deemer offered the following:

"Whereas this national council has voted to strike out the fifth object of our order, and

Whereas article 2 section 2, of the constitution of this body, requires that said action must be submitted to a vote of the members of our order; therefore be it

82 *Resolved*, That said question be submitted to the members of our order for a vote thereon at the first meeting of each council in the month of October next, and the result thereof be forwarded to the national secretary under seal, prior to November 1," (pages 233-234.)

Representative Kurtz of Pennsylvania moved that the resolution be adopted, which was agreed to.

At the next session of the national council at Richmond, Virginia, June 15, 1880, the votes of the members on the said proposed alteration (to strike out the fifth object) were received and counted, and the same not having been approved by a majority vote, became of no effect. (Page 262.)

At the 27th annual session of the national council at Omaha, Nebraska, June 18-21, 1895, a large number of amendments were offered, which, under the laws, were laid over until the next year. (*Vide* pages 250, 258, 262, 263, 264, 265 and 267).

At the 28th annual session of the national council at Denver, Colorado, June 16-19, 1896, the said amendments offered at the last session were considered, and the following action taken on the report

of the law committee on said proposed amendments. (Pages 238-242.)

To section I, article IV, constitution of the national council.—The action of the national council thereon, is recorded in the printed proceedings of said session (pages 248 and 249) as follows:

(The purpose of this stipulation, as to the said several proceedings of the sessions of 1896, 1897 and 1898, down to the motion of Representative Anderson on page 22 hereof, being to show, on behalf of complainant, that the adoption of the several amendments in question by a two-thirds vote does not affirmatively appear in the minutes.)

83 Upon the question being stated the ayes and nays were called for by * * * The ayes resulted as follows: * * * Total 63. The nays resulted as follows: * * * Total 65. The motion was not agreed to.

Recommendation 1 (page 251).—Representative A. D. Wilkin of Pennsylvania, moved to approve, which was agreed to.

Article IV, section 3 (page 251).—Past State Councilor C. N. Raymond of Pennsylvania moved to approve the minority report, which was agreed to.

Law XVI, section 3 (page 251).—Past State Councilor H. W. Buser of Pennsylvania, moved to approve, which was agreed to.

Law X, section 1 (page 251).—Representative A. D. Wilkin of Pennsylvania, moved to approve, which was agreed to.

As to an additional amendment to the same law X, section 1 (page 252), Representative A. D. Wilkin of Pennsylvania moved to approve, which was agreed to.

Article VII, section 1, constitution of the national council (page 252).—Past State Councilor H. J. Daily of Pennsylvania moved to approve. (Here follow motions to amend the proposed amendments.) The report of the committee as amended, was then agreed to. (Page 253.)

Article IV, section 2, constitution of the national council (page 253).—Past State Councilor H. W. Buser, of Pennsylvania, moved to approve, which was agreed to.

Article V, section 3, constitution of national council (page 253).—Past State Councilor H. W. Buser, of Pennsylvania, moved to approve, which was agreed to.

84 Article X, constitution of national council (page 253).—Past State Councilor H. W. Buser of Pennsylvania moved to approve, which was agreed to.

Article IV, section 1, constitution of national council (page 254).—Past State Councilor H. W. Buser of Pennsylvania moved to approve, which was agreed to.

Article VIII, section II, constitution of national council (page 254).—Past State Councilor H. W. Buser of Pennsylvania moved to disapprove, which was agreed to.

Article XVIII, constitution of national council (page 254).—Past

State Councilor H. W. Buser of Pennsylvania moved to approve, which was agreed to

Article XXV, section 1, constitution of national council (page 254).—Past State Councilor H. W. Buser of Pennsylvania moved to approve, which was agreed to.

Law XXVIII, section 1, page 254.—Representative M. H. Williams of Pennsylvania moved to approve, which was agreed to.

Law XXVIII, section 2, page 254.—Representative Walter Rees of Pennsylvania, moved to approve, which was agreed to.

Law XXVIII, page 254.—Representative M. H. Williams of Pennsylvania, moved to approve, which was agreed to.

Law XXX, section 2, page 254.—Representative C. S. Weiss of Pennsylvania moved to approve, which was agreed to.

Law XXX, section 5, page 254.—Representative C. E. Wogan of Pennsylvania moved to approve, which was agreed to.

Law XXX, section 6 (pages 254-5).—Past State Councilor Stephen Collins of Pennsylvania moved to disapprove, which was agreed to.

85 Law XXX, new section (page 255).—Past State Councilor Stephen Collins of Pennsylvania moved to disapprove, which was agreed to.

On page 271 of the printed proceedings of said session, appears the following:

"The following amendments were laid over under the law." (Here follow a number of proposed amendments to the general laws, and constitution of the national council, and a proposed alteration in the object of the order by adding the orphans' home as a sixth object.)

At the 29th annual session of the national council at Pittsburg, Pennsylvania, June 15-18, 1897, said proposed amendments were considered and the following action was taken on the report of the law committee thereon.

Pages 173-181 of the printed proceedings. (Here is given the report of the law committee on the proposed alterations and amendments.)

Representation (page 181).—National Representative Cannon of Colorado moved that we make no change in the representation at this session, upon which a division was called, resulting ayes 93, nays 68, so the motion was agreed to. National Representative Rees of Pennsylvania desired to be recorded as voting "No."

Law X, section 1, General Laws (pages 181-182).—P. S. C. Buser of Pennsylvania moved to approve the recommendations of the law committee, which was agreed to.

Law I, section 2 (page 183).—P. S. C. Flint of Kansas moved to adopt, which was agreed to.

86 Article II, national council constitution (page 183).—P. S. C. Buser of Pennsylvania, moved to adopt, which was agreed to.

Article IV, section 6, national council constitution (page 184).—P. S. C. Buser of Pennsylvania moved to adopt, which was agreed to.

Article XII (page 184).—P. S. C. Buser of Pennsylvania moved to adopt. P. S. C. Raymond of Pennsylvania moved to strike out the last five words, * * * National Representative Wilkin of Pennsylvania moved to lay the motion of P. S. C. Raymond upon the table, upon which a division was called, resulting ayes 97, nays 74, so, the motion was agreed to.

Law III, sections 1 and 2 (page 184).—P. S. C. Miers of New Jersey moved to approve. P. S. C. Buser of Pennsylvania moved to lie upon the table, upon which a division was called, resulting ayes 68, nays 94, so the motion was not agreed to. P. S. C. Wenner of Ohio moved to strike out one and thrée, making it read "Three or more" on the second ballot. * * * The question recurring upon the amendment of P. S. C. Wenner a division was called for, resulting ayes 143, nays 4, so the motion was agreed to. The question recurring upon the motion of P. S. C. Meirs as a member, a division was called for, resulting ayes 112, nays 36, so the motion was agreed to.

A substitution for section 2, article VI, national council constitution (page 185).—P. S. C. Flint of Kansas moved to adopt. P. S. C. Meirs of New Jersey moved that the report be for the year ending December 31st and the *per capita* tax be payable October 15 87 and April 15, which was accepted by Brother Flint and agreed to.

General law V, proposed new section (page 185).—P. N. C. Richter moved to adopt, which was agreed to.

Amendment to section 1, article II, national council constitution (page 185).—Representative Cannon of Colorado moved to indefinitely postpone, which was agreed to.

Amendment to article XVIII, national counsel constitution (pages 185 and 186).—Representative Cannon of Colorado moved to indefinitely postpone, which was agreed to. (The New Jersey delegation desired to be recorded as voting "No.")

Amend general law I by a new section (4) (page 185).—National Representative Reed of New Jersey moved to adopt the suggestion of the law committee. P. S. C. Meirs moved to strike out and insert * * * The amendment of P. S. C. Meirs was then agreed to, and the motion as amended was also agreed to.

On pages 186 and 187 appear a number of proposed alterations and amendments concerning which a motion to indefinitely postpone was agreed to in each case.

Amendment to general law 4, section 1 (page 187).—P. S. C. Raymond of Pennsylvania moved to adopt, which was not agreed to.

Amendment to article V, section 3, national council constitution (page 187).—National Representative Cannon of Colorado moved to strike out and adopt all preceding it, which was agreed to.

Add to general law I, section IV, on membership (page 187).—P. S. C. Carson of New Jersey moved to adopt, which was agreed to.

88 Amend law XXVIII, section 3 (page 188).—P. S. C. Buser of Pennsylvania moved to adopt, which was agreed to.

Amend law XXX, section 11 (page 189).—P. S. C. Buser of Pennsylvania, moved to adopt, which was agreed to.

Amend law XXX, section 3 (page 189).—P. S. C. Flint of Kansas moved to adopt, which was agreed to.

Constitution of national council, article X, page 189.—P. N. C. Badger moved to adopt, which was agreed to.

Amend law XXI, section 2 (page 189).—P. S. C. Flint of Kansas moved to adopt, which was agreed to.

On page 247 of the printed proceedings of said session, appears the following:

"The following amendments were read and laid over under the law." (Here follow a number of proposed amendments to the law of the national council.)

At the thirtieth annual session of the national council at Louisville, Kentucky, June 21–24, 1898, said proposed amendments were considered as follows:

"Add to law XX, section 6 (page 92 of printed proceedings).—P. N. C. Calver moved to approve, which was agreed to.

Add to section 2 of the general law XXVIII (page 92).—P. S. C. Jones of Delaware, moved to approve, which was agreed to.

Add to general law XX, section 7 (page 92).—P. S. C. Mullin of Montana moved to approve. P. S. C. Carson of New Jersey moved to strike out "approve" and insert "disapprove." The motion to strike out and insert was agreed to, and the motion as amended was also agreed to.

Insert in section 2 of general law XXI (page 92).—P. S. C. 89 Schenck of Washington moved to approve. Representative Sterner of Delaware moved to strike out "approve" and insert "disapprove." National Secretary Deemer moved *the* strike out all after the word "security" which was agreed to. The motion of Representative Sterner was disagreed to, and that of P. S. C. Schenck as amended, was agreed to, (page 93.)

Add to general law XVIII (page 93).—P. S. C. Tichener of New Jersey moved to not adopt. Representative Wilkin of Pennsylvania moved to strike out the word "not." P. S. C. Meirs of New Jersey moved to strike out * * * and insert * * * P. S. C. Tichener of New Jersey accepted the amendment. The motion of P. S. C. Meirs, was then agreed to.

Add to general law XXXI (page 93).—P. S. C. Jones of Delaware moved to approve. Representative Preston of North Carolina moved to strike out the word "approve" and insert the word "disapprove." The motion to strike out and insert was agreed to, and the motion as amended was also agreed to.

Representative Anderson of New York moved to postpone all action upon amendments in reference to the orphans' home until the report of the committee to count the vote on the new sixth object, which was agreed to.

Amendment to law VI, General Laws (page 93).—P. N. C. Richter moved to disapprove the recommendation and that the law be stricken out. P. S. C. Perce of Ohio, offered the following as *as* substitute * * * The substitute was adopted.

“We, your committee, appointed to canvass the vote on the sixth object of our order, beg leave to report that on Thursday, the fourth day of November, we met in the room of National Secretary Edward S. Deemer and counted the vote with the following result: Number of acceptable votes cast for, 19,140; number of acceptable votes cast against, 16,224; majority in favor, 2,916” (page 94).

90 (Pages 111 and 112).—P. S. C. Sibbs of Pennsylvania offered the following as substitutes for the amendments of the law committee:

Constitution of national council, article II, section VI: “To, establish or erect an orphans’ home, as a home for the orphans of deceased members of the order, and to maintain the same,” which was approved.

Article XVIII.

Article VI, section 3 (relating to a *per capita* tax).

Article XX, section 1.

Article XX, section 7.

All of which were severally approved.

(Page 112).—P. S. C. Collins of Pennsylvania moved to reconsider the vote adopting the amendment to general law XX, section 6, which was agreed to. Upon the question being stated, P. S. C. Collins of Pennsylvania moved to insert. The amendment was agreed to, and the article as amended was also agreed to.

On page 113 of the printed proceedings of said Louisville session of 1898 appears the following: P. S. C. Collins of Pennsylvania moved to refer the general laws, constitution of the national council and subordinate councils under the jurisdiction of the national council to the incoming law committee for general revision, which was agreed to.

Amendment to law XXV, section 1, General Laws (page 113).—Representative Wilkin of Pennsylvania moved to approve, which was agreed to.

Amend law XXV by adding sections 3, 4, and 5, (pages 113–4) P. S. C. Lichliter of Pennsylvania moved to adopt. P. S. C. Arthur

91 moved to strike out all after the word “adopt,” and to insert “that in consideration of the national council having referred the laws to the incoming law committee for general revision, that all further amendments be laid over.” The motion to strike out and insert was agreed to, and the motion as amended was also agreed to.

On page 223 of said printed proceedings of the Louisville session of the national council in 1898, appears the following: which was the first step taken towards adding the insurance branch to the objects of the order.

The following was then read.

JUNE 23, 1898.

Be it resolved, That the national councilor appoint a committee of three, whose duty it shall be to investigate a suitable plan of endowment rank for this order, said rank to be optional with the members, and that they report same to this body at its meeting in 1899.

J. L. COOPER.

W. R. DILLINGHAM.

J. C. CORSON.

H. A. SLAUGHTER.

P. S. C. Cooper of Texas moved to approve, which was agreed to.

The next step was the report of this committee on endowment rank, which was presented to the national council on June 21, 1899, the second day of the Minneapolis session, and made the following recommendations :

"First. We recommend that the national council establish an insurance branch in connection with the order, which shall be known and designated as the 'beneficiary degree.'

92 "Second. We would recommend that the beneficiary degree be managed and controlled by the national council through duly elected officers to be known and designated as the 'board of control.'

Third. We would recommend the following laws creating, defining and governing the beneficiary degree and the board of control."

Said laws follow on pages 82 to 86, and may be considered as in evidence in this cause.

Immediately upon the presentation of this report, the following alleged action of the national council was taken thereon, and it appears on page 86 to have been as follows:

"P. S. C. Collins of Pennsylvania moved to go into committee of the whole to consider the same, upon which the ayes and nays were called for by several members, which the national councilor refused to entertain. The motion of P. S. C. Collins was then agreed to and the national council resolved itself into a committee."

"Subsequently the committee arose and reported that they adopted the report of the committee without amendment."

P. S. C. Collins of Pennsylvania moved to adopt the report of the committee of the whole. The ayes and nays were again called, and the national councilor refused to entertain the call.

P. S. C. Collins moved to reconsider and that the reconsideration lie upon the table, which was agreed to.

The foregoing alleged action on the report of the committee on endowment rank was taken immediately upon its presentation to the Minneapolis session, June 21, 1899, while the old constitution

93 and laws of the order (Exhibit E to the bill) were in full force and effect, the report of the law committee not having been acted upon, and the alleged new constitution and laws not having been declared adopted until the following day.

The aforesaid report of the committee on endowment rank was

not published prior to the said Minneapolis session, and the said insurance branch claimed by the complainant to have been adopted by the national council, as above set forth, has never been submitted to or approved by a majority vote of the members of the order, which the defendants contend was required as a prerequisite to its validity by section 2 of article II of the national council constitution. And the defendants deny that the said alleged action resulted in any valid alteration of the constitution, general laws or objects of the order, for the reason that the same was not adopted by a two-thirds vote as required by the constitution, or submitted to or approved by a majority vote of the members of the order, and for the further reasons set up in the answer.

The complainant, however, contends that said insurance feature was validly adopted and that said constitution and laws were adopted by a two-thirds vote at the Minneapolis session.

On page 188 of said Minneapolis session, appears the following :—
The following was then read :—

“Resolved, That the board of control created by this national council be and are hereby authorized and empowered to cause said beneficiary degree to be incorporated as and under the name of ‘The Beneficiary Degree of the Junior Order of United American Mechanics,’ and to do any and all things that is or shall become necessary to accomplish said incorporation.”

94 P. S. C. Jones of Delaware, moved to adopt, which was agreed to.

On the last day of the session, after vote on the alleged adoption of the new constitution and laws, the following were declared elected to the board of control of the beneficiary degree :

E. H. Godfrey, Minnesota, 3 years ;

J. G. A. Richter, Ohio, 2 years ;

N. B. Moore, Texas, 1 year.

See pages 189 and 190.

On June 23, 1899, the last day of the Minneapolis session, the following proposal bill No. 2 was offered by P. S. C. Arthur of Pennsylvania, and referred to the finance committee :

A Proposal

For a Statute Making a Loan to the Board of Control, B. D.

Be it enacted by the National Council Junior Order of United American Mechanics—

SECTION 1. That a sum not exceeding \$5,000 be appropriated for the use of the board of control of the beneficiary degree, said money to be paid to them in such sums as their needs may require, and a return of the money to be made within one year from this date. (Page 190.)

SECTION 2. This law shall take effect and be in force immediately upon its passage. (Page 191.)

Later, on the same day the said bill No. 2, making a loan of \$5,000 to the board of control was reported favorably by the finance committee. The ayes and nays were called, resulting as follows: Ayes 102; nays 33, so the proposal was approved. (Page 207.)

95 On page 208 appears:

"New question in the order of business was adopted;

"11. Does any member desire to join the beneficiary degree?"

It is admitted that the regular order of business as above changed requires this together with certain other questions not relating to the beneficiary degree, to be asked by the councilor of every council at every meeting of his council.

The beneficiary degree was incorporated under chapter 19 of the General Statutes of Colorado on July 29, 1899, and a copy of its articles of incorporation is contained on pages 148, 149 and 150 of the Philadelphia proceedings, (Exhibit D to the bill), and may be treated as in evidence in this cause.

On page 158 of said proceedings for 1900 appears the following financial statement of the beneficiary degree:

FINANCIAL STATEMENT.

Income During the Year Ending April 30, 1900.

From assessments.....	\$1,143.15	
Medical examiners' fees.....	465.00	
National council.....	1,894.30	
		<hr/>
		\$3,502.45

Disbursements.

Officers' salaries.....	\$577.00	
Clerical help.....	225.00	
Medical examiners' fees.....	387.55	
Advertising & printing.....	642.18	
Commissions to organizers.....	475.70	
Postage and expressage.....	397.70	
96 Insurance department.....	90.30	
Governing body (board of control).....	300.00	
Miscellaneous	40.48	
Office furniture.....	291.18	
		<hr/>
		3,427.09
		<hr/>
Balance April 30th, and deposited in Denver national bank.....		75.36

Assets.

Cash in Denver national bank.....	\$75.36
Office furniture.....	291.18
Supplies.....	250.00
Assessments, not over 30 days due.....	250.00
	<hr/>
	\$866.54

Liabilities.

Due and accrued for salaries.....	\$1,402.50
Due and accrued for clerical help.....	75.00
Bills for stationery and supplies.....	347.00
Due officers for money advanced.....	218.30
	<hr/>
	\$2,042.80

97 *Exhibit of Certificates Written.*

		Amount at risk.
Number of certificates written to and included		
April 30th.....	310	\$366,500.00
Cancelled	1	1,500.00
	<hr/>	<hr/>
	309	365,000.00
Reissued	1	1,000.00
	<hr/>	<hr/>
	310	366,000.00
Terminated by death.....	1	3,000.00
	<hr/>	<hr/>
Total in force April 30.....	309	363,000.00

At the session of the national council at New Brunswick, N. J., June 17-19, 1879, the report of the national secretary Deemer contained the following (page 212):

"I suggest to this body the expediency of the appointment of a special committee to consider the subject of substituting life insurance or endowment in lieu of the funeral benefit feature of our organization."

The committee to whom said report was submitted, recommended that the subject be referred to a special committee of three to report at the next session, which was agreed to. (P. 231.)

At the next session of the national council at Richmond, Virginia, June 15, 1880, the committee to whom the subject of life insurance was submitted, reported in favor of the plan and the following action was taken thereon:

(Page 256:) P. S. C. Hayes, of New Jersey moved that the report be accepted and we proceed to act upon the laws by sections.

P. S. C. Sibbs of Pennsylvania moved to amend that when approved by this body, they be submitted to a vote of the members of

the order, and, if approved by a majority of those voting
 98 thereon, it go into effect immediately, and until so approved,
 it shall be of no effect, which was agreed to. The motion as
 amended, was also agreed to. (Page 257.)

P. S. C. Sibbs offered the following:

"*Resolved*, That the proposed laws be adopted as a whole and the secretary be instructed to have the same printed and submitted immediately to the members of the subordinate councils for approval, or disapproval, and the result thereof forwarded to the national secretary before the 15th of July 1880, upon which date he shall announce the said results to the order at large."

P. S. C. Hays of New Jersey moved that the resolution be adopted, which was immediately agreed to. (Page 258.)

P. S. C. Sibbs of Pennsylvania moved that we proceed to the selection of a board of managers to act in the event of the adoption of the insurance plan, which was agreed to, when Brothers Sibbs, Sohl, Adams, Bartlett and Tuers were declared elected. (Page 267.)

At the next session of the national council at Haverhill Massachusetts, June 22, 1881, the vote of the members on the said proposed insurance plan was received and counted, and the legality of certain votes cast was questioned. The committee that counted the vote recommended that a new vote be taken upon the said proposed insurance plan at the last meeting in September, which recommendation was adopted. (Page 303.)

At the next session of the national council in New York June 22, 1882, the votes of the members cast on the said proposed insurance plan were received and counted, and the same failed to become effective, because it was not approved by a majority vote. (Page
 99 334.)

On June 22, 1899, the third day of the Minneapolis session, the law committee submitted a report (Complainant's Exhibit "Y") and the alleged action thereon appears from pages 115 and 116 to have been as follows:

P. S. C. Collins of Pennsylvania moved that the national council resolve itself into a committee of the whole for the consideration of the report of the law committee. A call for the ayes and nays was here made and ruled out by the national councilor, when the following appeal was presented:

"We hereby appeal from the action of the national councilor in refusing to recognize a call for the ayes and nays. Charles N. Raymond, Thomas Sanger, E. T. Keeton."

The question being stated, "Shall the decision of the national councilor stand as the judgment of this national council," a division was called, resulting ayes 76; nays 46, so the decision of the national councilor was sustained."

"The national council then went into the committee of the whole with P. N. C. Powell in the chair."

Subsequently the committee arose and through its chairman reported a code of laws as the result of the committee of the whole

(being pages 7 to 70, Appendix to Complainant's Exhibit C to the bill).

P. S. C. Collins of Pennsylvania moved that the report be accepted and the laws adopted, which was agreed to.

P. S. C. Collins of Pennsylvania moved to reconsider and that the reconsideration lie upon the table, which was agreed to.

The said new constitution and laws claimed by the complainant to have been adopted at the Minneapolis session, as above set forth, purport to make the following, among other changes, in the national council constitution, general laws and objects of the order then in force. (Complainant's Exhibit E, pages 1 to 71.)

OBJECTS OF THE ORDER.

Before the Alleged Change.

First. To maintain and promote the interests of Americans, and to shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and to uphold the reading of the Holy Bible therein.

Sixth. To establish or erect an orphans' home as a home for the orphans of deceased members of the order, and to maintain the same.

After the Alleged Change.

First. To maintain and promote the interests of Americans and shield them from the depressing effects of *unrestricted* immigration;

To assist them in obtaining employment, and

To encourage them in business.

Second. To establish an insurance branch and sick and funeral fund.

Third. To uphold the American public school system, to prevent interference therewith and to encourage the reading of the Holy Bible in the schools thereof.

Fourth. To promote and maintain a national orphans' home.

The alteration in the first object by striking out "foreign competition" and inserting "unrestricted immigration," was not mentioned in the report of the law committee.

No one of the said alterations in the object has been submitted to or approved by a majority vote of the members of the order, which defendants contend was required as a prerequisite to their validity by article II, section 2, national council constitution, which was in full force and effect at the time of the alleged adoption of said al-

101 terations in the objects of the order, as above set forth. Said alleged new constitution provides by its last article (article XVII) that from and after its adoption by the national council "this constitution shall take effect and be in full force."

Said new constitution *purports* to repeal the constitution and laws then in force, including the aforesaid article II, section 2, and no provision has been substituted therefor to require any change in the national council constitution, general laws or objects of the order, or other matter, to be submitted to and approved by a majority vote of the members of the order, before the same shall become effective. There is, however, provision in said alleged new constitution for submission of amendments to be thereafter made thereunto to the several State councils for a vote by the members of the State council as such, and that it shall be necessary for a majority of the State councils to so vote in favor of any such amendment before it shall become a part of the alleged constitution of the national council, as will at large appear by reference to article XVI of said alleged new constitution of the national council.

Article XV, section 3, of said alleged new constitution is as follows:

"SECTION 3. All constitutions, laws and decisions of the national council and rulings of the national councilor, except as in this constitution otherwise specifically provided, are annulled."

"Section 2 of article VII, national council constitution as proposed by the law committee, made no changes in the representation of State councils in the national council (which was fixed by article IV, section 1, of the old constitution) but section 2 of article VII, as claimed to have been adopted, reduced the number of representatives.

102 The following provisions of the said new constitution and laws claimed to have been adopted as aforesaid are different from the original report (as published before and submitted to the Minneapolis session) of the law committee of the same, viz:

Article VII, section 15, paragraph 17 of the new constitution as reported, provided as follows:

"To prescribe by law the paraphernalia, emblems, jewels and insignia of the order, and in like manner to control their use."

The words "and sale thereof" are added by the alleged adoption of the same.

Article IX, section 4, national council constitution, as reported, provides that the supreme judges of the national judiciary shall be nominated by the national councilor, and confirmed by a majority vote of the national council. As claimed to have been adopted, said section provides that the supreme judges shall be appointed by the national board of officers, which consists of the national councilor, national vice councilor and junior past national councilor.

Chapter VIII, section 4, of the national laws, providing for eligibility to the office of national councilor or national vice councilor, as reported, contained the following:

"No one shall be eligible to either office, unless he be a national representative in good standing."

As claimed to have been adopted:

"No one shall be eligible to either office unless he be a member of the national council in good standing."

103 Chapter XI, as reported by the law committee, is as follows:

CHAPTER XI.

Compensation for Attendance upon Meetings of the National Council.

SECTION 1. All officers of the national council, the judges of the national judiciary and the members of the permanent committees, shall be allowed their actual traveling expenses by the most direct route from their place of residence to the place of meeting and returning therefrom, and *their actual hotel expenses* for such period of time as the national council may be in session and for day prior thereto.

The same section, as claimed to have been adopted, is as follows:

"All officers of the national council, the judges of the national judiciary and the members of the permanent committees and *national representatives* shall be allowed two and one-half ($2\frac{1}{2}$) cents per mile by the most direct route from their place of residence to the place of meeting, and returning therefrom; and \$3.00 *per diem* for such period of time as the national council may be in session and for one day prior thereto."

Chapter XIV, national laws, being the law in reference to regalia of the order, as claimed to have been adopted, repeals sections 4, 5, 6, 7, 8 and 10, and changes section 9 of the old law in reference to regalia, general law IX, Complainant's Exhibit "E" page 14, section X, of which is as follows:

104 The law in reference to regalia shall not be altered by decision or otherwise unless the proposed alteration be submitted to a vote of the members of the order, and a majority of the vote given in favor of such alteration."

This provision was a section in the general laws of the order before the national council was instituted, and was carried into the general laws of the order, adopted by the national council upon its institution in 1869, and remained in full force and effect from that time up to and during a part of the third day, at least, of the Minneapolis session in 1899, and had never been changed.

The said new laws, as claimed to have been adopted, repeal this provision and contain no provision which requires any alteration in the law in reference to regalia to be submitted to the members of the order for a vote and a majority vote given in favor of such alteration before the same shall become effective.

No one of the above alterations in the law in reference to regalia

has ever been submitted to or approved by a majority vote of the members, which defendants contend was required as a prerequisite to their validity by said section 10, of general law 9, which was in full force and effect at the time of the alleged adoption of said alterations.

Alterations in the law in reference to regalia having been adopted at the previous session of the national council and embodied in five sections, to be added to the regalia law, and the same having been submitted to the members of the order for a vote the national
105 council, at its next session in Boston, June 18, 1875, received and counted the said votes and a majority being in favor of four of the said sections they became effective, but the said other section failing to receive the majority vote in favor of it, failed to become effective. (Proceedings, 1875, page 115.)

At the session of the national council at Georgetown, D. C., June 17, 1884, the following was read :

"Add a new section to law XXI, general laws to be known as section 2: Members of the national and several State councils shall not be compelled to wear the foregoing prescribed regalia, provided they shall wear instead thereof, the emblems as prescribed by law 12, general laws.

G. HOWELL ARTHUR.
ROBERT OGLE."

Representative Armstrong of Pennsylvania, moved to adopt which was agreed to.

P. N. C. Calver moved that the amendment be submitted to a vote of the order at the same time, as the amendments to the fifth object, which was agreed to. (Page 378.)

At the session of the national council held at Harrisburg, Pennsylvania, June 16, 1885, the vote of the members of the order on the proposed alteration in the law in reference to regalia was received and counted, and a majority of the vote having been given in favor of said alteration, it thereby became effective. (Page 413).

National laws, division 1, chapter XXIII, section 14, Minneapolis laws, as claimed to have been adopted, is as follows:
106 "The board of trustees shall be considered a permanent committee, and shall have all the rights and privileges of such a committee," which was not in the report of the law committee.

Chapter XXIV, as claimed to have been adopted, was not in the report of the law committee, and is as follows:

"SECTION 1. There is hereby recognized as the uniform rank of this order and as affiliated with it the United American Mechanics.

SECTION 2. It shall be the duty of the national and of State council officers to aid, so far as may be within their power, the advancement of the uniformed rank."

No part of the said alleged new constitution, general laws and ob-

jects of the order has been submitted to the members of the order for a vote, or approved by a majority vote of the members.

At the session of the national council at Atlantic City, N. J. in 1892 (page 402) Deputy National Councilor F. J. Shaler of Illinois, recommended that the national council should become incorporated and that all State councils should do likewise, which was approved.

On April 10, 1893, by decree of the court of common pleas, No. 3, Philadelphia county, Pennsylvania, the national council became a body corporate and incorporated into its charter the original objects of the order with such alterations thereof, and additions thereto, as had been at that time adopted by the national council and submitted to a vote of the members of the order and approved by a majority vote. These objects were set forth in said corporate charter, as follows :

107 "First. To maintain and promote the interests of Americans and shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and to uphold the reading of the Holy Bible therein."

On April 2, 1898, by authority of said court, said corporate charter was amended by adding the following as a sixth object :

Sixth. "To establish or erect an orphans' home, for the orphans of deceased members of the order, and to maintain the same."

The said sixth object having been adopted by the national council in 1897 was submitted to and approved by a majority vote of the members of the order.

Neither the alteration of the fourth object by the addition of the insurance branch, nor any one of the other alterations in the objects of the order, claimed by the complainant to have been adopted at the Minneapolis session in 1899, has been authorized by the court as an amendment to the corporate charter of the national council.

At the session of the national council in 1897, (page 31) the national councilor recommended as follows :

"That all State councils be incorporated."

National Representative Hall of Iowa moved to approve, which was agreed to. (Page 14.)

108 In the printed proceedings of the national council for the year 1894, (pages 53 and 54) appears the following, in the report of the national secretary :

"I suggest that instead of the premium of \$75.00, which we have been giving to State councils, that amount be given in books and supplies. The officers of this body know better what is required by State councils composed generally of persons who have had no experience whatever, and who have no idea of the necessities of the position in which they have been placed. The amount of \$75.00

distributed by the experience of someone knowing just what is wanted, will be worth a dozen times the amount, in the instruction given to a new State council, and of untold value to this body in the record, which would be kept."

* * * * *

I would distribute the amount as follows :

Return book.....	\$3.00
Minute book.....	3.00
Three cash books.....	10.00
Order book	9.50
Roll book	5.00
Seal.....	5.00
Ten sets of rituals.....	10.00
Ten question books	10.00
Four hundred odes	6.00
Ten funeral rituals.....	2.50
Fifty public installations	5.00
One hundred card-, withdrawal, traveling, dismissal and ad- mission.....	6.00
Total.....	75.00

The action of the national council on the foregoing recommendation appears on page 59, as follows :

109 "Supplies instead of the premium to State councils.—Representative E. T. Keeton of Virginia moved to approve with a suggestion from Representative Z. T. Wobensmith of Pennsylvania, that the distribution be left with the national secretary, which was agreed to."

The State Council secretary of the District of Columbia in his first report, to the State council (printed proceedings 1895, page 36) makes statement as follows :

"Just before our body was instituted, the national secretary sent a large box full of supplies for the State council, comprising, 1st, book for the entry of bills after approval by the finance committee ; 2nd, roll book, for the use at the session of the State council ; 3rd, receipt book for certain matters noted therein ; 4th, *per capita* tax receipt book ; 5th, registry of councils as applications are granted ; 6th, return book to enter quarterly reports of subordinate councils ; 7th, journal or minute book ; 8th, general cash book ; 9th, combination, order and check book, together with ode cards, withdrawal cards, dismissal cards, traveling cards, application blanks for premiums, set of rituals, funeral ceremonies, seal, etc. Supplies sent were valued at \$75.00."

The application of the several subordinate councils in the District of Columbia, as presented to the national council, asking that a State Council charter be granted the subordinate councils in the District of Columbia, appears on pages 186 to 191 of the printed

proceedings of the Asheville session, 1894. The action of the national council was as follows (page 194) :

" Past National Councilor G. W. Elbert of New Jersey, moved to grant the charter, which was agreed to."

110 On page 196 of the said proceedings, appears the following :

" National Secretary E. S. Deemer moved that State Council of the District of Columbia, should date from July 1, which was agreed to.

Article VI, section 1, of constitution of national council in effect from and after the Asheville session (June 1894) provides as follows :

The revenue of the national council shall be : " For State Council charter, one (\$1.00) dollar."

The records of the national secretary, under date of June 28, 1894, show that the State Council of the District of Columbia paid one (\$1.00) dollar as their charter fee.

Since 1894 the State Council of the District of Columbia has paid to the national council as *per capita* tax, the sum of nine hundred and twenty-four dollars and sixty-four cents (\$924.64) including *per capita* tax paid for the support of the orphans' home ; besides this, it has contributed the sum of fifty (\$50.00) dollars to the orphans' home.

March 25, 1902.

GEO. FRANCIS WILLIAMS,
A. W. SHUNK,

Solicitors for Complainant.

C. M. BIGELOW,
J. J. DARLINGTON,

Solicitors for Defendants.

111

Memorandum.

Exhibit Y is a report of the law committee and is transmitted herewith.

112 *Testimony on Behalf of Complainants.*

Filed May 1, 1903.

In the Supreme Court of the District of Columbia.

NATIONAL COUNCIL, JUNIOR ORDER OF UNITED American Mechanics, vs. STATE COUNCIL OF THE DISTRICT OF COLUM- bia, Junior Order of United American Me- chanics.	}	Equity. No. 21890.
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WASHINGTON, D. C.,
FRIDAY, May 31, 1901—3 p. m.

The parties met pursuant to notice at the office of Mr. George Francis Williams, Century bldg. city.

Present for complainant: Mr. Geo. Francis Williams and Mr. A. W. Shunk.

Present for defendants: Messrs. J. J. Darlington and C. M. Bigelow.

Whereupon EDWARD S. DEEMER, a witness produced by and on behalf of the complainant, being duly sworn, was examined by—

Mr. WILLIAMS:

Q. What is your residence and age? A. Philadelphia, Penn. My office is in the Stephen Girard building in that city. My age is 61 years.

Q. What position or office do you hold in the National Council, Junior Order United American Mechanics? A. I am national secretary.

113 Q. How long have you held that office? A. Since the organization of the national council.

Q. In what year? A. September 30th, 1869.

* * * * *

NOTE.—At this point the witness produced copies of printed reports of proceedings of the National Council (complainant) in their annual sessions from 1894 to 1900, both inclusive, which were marked by the examiner for identification "May 31, 1901, Nos. 1 to 7 respectively." At the time objection was made by defendant's counsel to said reports, but by a stipulation afterwards entered into by counsel dated March 25, 1902, all parts of reports deemed material are in evidence, subject to objections stated in said stipulation. The witness also produced a printed report of the law committee which was objected to, but which by the same stipulation was afterwards given

in evidence on behalf of complainant and filed with said stipulation marked Exhibit Y.

* * * * *

Q. Did you act as secretary of the national council at the convention or meeting at Minneapolis in 1899? A. I did.

Q. Can you tell from the records of that meeting whether or not they show the vote as to numbers or majority on the adoption of the laws and constitution; and if so, can you refer to them?

Mr. DARLINGTON: I object to any testimony on this subject by the witness on the ground: first, that it — an incompetent method
114 of proving the facts in question by attempting to do so by the recollection of this witness, and secondly, upon the ground that the pamphlets produced here are admittedly not the original minutes of the proceedings. And I make the further objection that as the original minutes of that meeting are in existence, no testimony should be received or admitted as to them until those original minutes are produced and we have an opportunity of examining them.

A. I have them here. This report of the law committee previously alluded to was acted upon in committee of the whole.

Mr. DARLINGTON: Are you reading?

A. No, sir. They met at different days and adjourned.

Mr. DARLINGTON: Are you a member of that committee?

A. I was; and this record I am referring to now, says——

Mr. DARLINGTON: I object * * * It is agreed that the portion of the pamphlet in question may be read into the record and subject to objection of counsel.

A. (Reading:) "The national council then went into committee of the whole, with P. N. C. Powell in the chair.

"Subsequently the committee arose, and through its chairman reported a code of laws, as the result of the committee of the whole.

"P. S. C. Collins of Pennsylvania moved that the report be accepted and the laws adopted, which was agreed to."

Q. Have you any recollection, and if so, what, as to what the vote here referred to actually was both in favor of and against the report?

Mr. DARLINGTON: I object to that as not a proper way of proving a vote of that character.

115 A. There was in the neighborhood of 190 votes. I simply judge of that from the attendance that was present. There was no record of any vote being taken on the adoption of the laws. My recollection is that they were adopted by a very large majority.

Q. Is it your duty to make a report to the national council at its annual session as to the membership of the order? A. It was at that time.

Q. Did you make such report in 1900? A. I did.

Q. Was the membership of New Jersey, New York, Virginia and the District of Columbia omitted from or included in such report, and if omitted, why? A. It was omitted because I had no reports from those State councils. Their charters had been revoked by the national judiciary and board of officers.

Mr. DARLINGTON: I object to that answer on the ground that the revocation of the charters cannot be proved in this way.

Q. Was the membership of Pennsylvania omitted or included? A. Included.

Q. Why? A. Because we had a report from them.

Q. Have you any knowledge as to whether all, or if not all, what portion of the members of the order in the States whose charters you say had been revoked are insubordinate to the national council?

Mr. DARLINGTON: I object on several grounds—

A. That is a question nobody can answer.

* * * * *

116 Q. Do you keep the financial accounts of the national council? A. I do.

Q. Will you state in brief what corporate property the national council has? A. I don't know that I understand that question.

Q. What property? A. Our property consists of books and papers:—it is personal property. We have got an iron safe, book-cases and so on.

Q. Is there any money or funds? A. Yes; there are at times.

Q. Is the money or property of the national council held in trust for the State councils as set forth in the answer in this case?

Mr. DARLINGTON: I object. This is a matter not calling for the opinion of the witness, but for the documentary records.

A. I would not consider that the national council held any money in trust. They collect a *per capita* tax from the organizations.

Q. Are there any documents which contain any statements as to how and for what purpose and uses the property referred to is held by the national council? A. The report of the finance committee to the national treasurer here shows the estimates and appropriations: how the money is spent and the balance on hand. This *per capita* tax is levied each year simply to pay expenses and not to accumulate a fund.

Q. I repeat the question, whether there are any documents which state upon what terms the property of the national council is held and for what purposes? A. Well, I answer that none of it is held.

117 Q. Do you know of any documents which show how it is held? A. No.

Q. Did the national council advance or loan any money to the insurance branch of the order referred to in the defendant's answer? A. They did.

Q. Is that money still owing or not? A. It is owing.

Q. By the insurance branch to the national council? A. Yes.

Q. What records will show the amount of this loan and the purposes? A. The proceedings will show the amount appropriated, and the minutes of 1900 will show the amount advanced up to that time.

Q. Do you know whether any combination was ever made by any members of the national council to obtain control of the organization contrary to law, at the Minneapolis convention?

Mr. DARLINGTON: I object to that question as calling for blended statements of the witness's knowledge and opinions.

A. No.

Q. Were you a party to any combination of members in the national council to obtain such control?

Mr. DARLINGTON: Same objection.

A. Most emphatically, no.

Mr. WILLIAMS: I offer in evidence pages 223 and 224 of the official printed report produced by this witness of the session of
118 1898, purporting to show notice of the intention to form an insurance branch and reference of the same to a special committee.

Mr. WILLIAMS: I also offer in evidence the pages purporting to give the report of the committee appointed in 1898, just referred to, to the session held in 1899, said pages being numbers 82 to 86, and part of 86, all being Exhibit C filed with the bill.

* * * * *

Cross examination.

By Mr. DARLINGTON:

Q. Does the national council own an orphans' home? A. Yes, sir.

Q. What does that home consist of? A. A number of buildings and 177 acres of land.

Q. Do I understand you to say that the national council owns no real estate? A. I did say that.

Q. Do you wish to modify that? A. Yes, sir.

Q. What has this home and its equipment cost the national council? A. Do you mean what has it cost the national council?

Q. What has been the cost of the property? A. The property originally was presented to the national council by the Young America council of Tiffin, Ohio, and since then there has been a *per capita* tax levied for its support.

Q. Can you tell us what the property cost as distinguished from its maintenance? A. I would have to refer to the books for
119 that. There has been a *per capita* tax of 15 cents levied until this year when a 25 cent tax was levied—

Q. That is for maintenance? Q. Yes sir.

Q. I am not asking about that, but about the cost of the ground and the buildings? A. There has been two buildings erected there since the property was presented to the national council by the Young America council, and those have been paid for, I suppose, out of the *per capita* tax and contributions or donations made by different councils.

Q. Once more I ask you, if you can give us what the cost of these buildings has been? A. I think they cost something like \$12,000 or \$15,000, each to put up.

Mr. WILLIAMS: That answer is objected to on the ground that there has been no foundation laid to show that the witness has any knowledge or means of knowing what the cost of the buildings was.

Mr. DARLINGTON: I understood him to say that he was the financial secretary of the national council.

Mr. WILLIAMS: He said he would have to refer to the books to ascertain.

A. I wish to say that I had nothing to do with the orphans' home; that is managed by a board of trustees.

Q. Are you or not the financial secretary of the organization?

A. Yes sir, but not the financial secretary to the board of managers of the orphans' home.

Q. Have you or not in your official capacity data from which to determine the cost of these buildings? A. There is a report of the trustees of the orphans' home printed annually in the
120 proceedings.

Q. That does not answer the question. I want to know whether you have in your official capacity or otherwise data from which we can obtain the cost of these buildings? A. Yes, I suppose so.

Q. I will ask you to produce that.

Mr. WILLIAMS: I will ask you whether that is the original data that you have, or whether the trustees have the original data?

A. The trustees have the original documents, books, and so on.

Q. Is this orphans' home the individual private property of the national council, or do they hold it as trustees for the order? A. I hold the deed from the trustees of Young America council to the national council of this 177 acres of land.

Q. Have you that deed with you? A. No, sir.

Mr. DARLINGTON: We call for its production.

Mr. WILLIAMS: Counsel for the complainant state that they object to the production of the deed on the ground of its not being material to any issue in this cause.

Q. What is there in the shape of records, papers or written evidence of any kind to show the purposes for which the council holds this orphans' home property? A. This orphans' home was *created*

by the act of the national council to care for the orphans of deceased brothers of the order.

121 Q. The deceased brothers of the order belong to the subordinate and State councils? A. Belong to subordinate councils.

Q. Throughout the States? A. Throughout the States.

Q. Then do you still hold to the statement in your examination in chief that the national council holds no property in trust for the subordinate councils? A. I corrected my statement so far as the orphans' home is concerned.

Q. Do you know what the value of the 177 acres of land is? A. I have understood it cost \$37,000.

Q. I understand from you that this *per capita* tax is levied for the express and only purpose of paying the current expenses of the order?

A. There is a *per capita* tax of 15 cents levied for the national council and then there is a tax for the support of the orphans' home.

Q. But both of these are for current expenses only? A. Well, I don't know. It is levied for the support of the orphans' home and the trustees make a report annually to the national council of what they did with the money.

Q. I understood you to testify in chief that this *per capita* tax was to pay the current expenses only and not for the purpose of accumulating any fund? A. Yes, sir.

Q. Where did the national council get the money loaned to the insurance branch? A. From the *per capita* tax.

122 Q. How did they pay the current expenses after deducting the amount they loaned the insurance branch? A. They have that much less on hand. They haven't given the insurance branch all that money; it was not expected it would all be called for at once.

Q. But my question is, if the assessments are only to pay current expenses and not to accumulate a fund, where did the fund come from that you loaned the insurance branch? A. That is where it came from.

Q. Do you mean that it was a diversion from the purposes of which it was intended? A. I am not prepared to answer that question, because the estimates are made each year and I suppose that when this \$7,500 was loaned to the insurance branch that provision was made for it in the fixing of the tax.

Q. Why do you suppose that? A. Simply because they usually make the tax to meet the appropriation.

Q. When was this \$7,500 loan provided for? A. At Minneapolis.

Q. Then if I understand you, the assessment levied at that meeting upon the several State or subordinate councils included not only a *per capita* tax sufficient to pay the current expenses of the order and home, but it included also the money to be loaned to the insurance branch. A. The report will show that if it was included in the estimates.

Q. Haven't you said that according to your understanding the assessment at the Minneapolis meeting was to provide this insurance loan fund? A. I said that was my impression.

123 Q. It was the non-payment of that assessment that led to what you call the revocation of the charter of the District of Columbia State council? A. Well, it was for the non-payment of the tax that was levied at the Minneapolis session. It covered all purposes.

Q. That is, this entire tax? A. Yes sir.

Q. Including this insurance fund assessment? A. Yes sir.

Thereupon the parties adjourned to meet again upon notice.

JOSEPH HARPER, *Examiner*.

124

WASHINGTON, D. C.,
FRIDAY, November 8, 1901—2:30 p. m.

The parties met at the office of Mr. George Francis Williams, # 500 Fifth St., N. W.

Present for complainant: Mr. Williams and Mr. A. A. Birney, and Mr. A. W. Shunk.

Present for defendant: Mr. C. M. Bigelow.

Mr. WILLIAMS: It is agreed upon redirect examination certain questions not strictly the subject of redirect examination may be asked by complainant's counsel.

Mr. BIGELOW: With consent of counsel for the complainant, Mr. Darlington being engaged in court, I will proceed with the cross examination of this witness.

Cross examination.

By Mr. BIGELOW:

Q. When was the session held in Minneapolis? A. In June, 1899.

Q. June 20th to 23d, was it not? A. I guess so; it was three days.

Q. I understand from your testimony that the committee on endowment rank presented a report at that session, on June 21, 1899, the second day of the session? A. Yes sir.

Q. Recommending fundamental laws creating the beneficiary degree or insurance branch, and governing its board of control, is that right? A. Yes sir.

Q. And it was the adoption of this report of the committee on endowment rank that added the insurance branch as an
125 object of the order? A. I am not ready to answer that question, owing to the peculiar construction placed upon the word, insurance branch. We claim the introduction of the beneficiary degree into the organization was simply carrying out more fully the object "To establish a sick and funeral fund."

Q. My question is, if it was not the adoption of this report which

added the insurance branch or beneficiary decree as an object of the order? A. With the explanation I have previously made, I will answer, yes.

Q. Prior to that session, there was no insurance branch of the order, was there? A. Nothing more than this object of the order, "To create a sick and funeral fund." I might say in addition that there had been funeral benefit associations existing throughout the order for probably fifteen years.

Q. But these were not under the control of the order? A. No; but recognized and indorsed by the national council.

Q. I believe you were one of the organizers of one of these funeral benefit associations? A. I have that honor.

Q. That was the funeral benefit association organized at Philadelphia? A. Yes, sir.

Q. And that has a membership of about 126,000, has it not? A. I am not prepared to specify particularly. I will say 100,000.

Q. And other funeral benefit associations have been organized in Maryland, New York, New Jersey, and St. Louis? A. Yes.

Q. And they were organized for the purpose of carrying out that object, "to establish a sick and funeral fund"? A. Yes.

* * * * *

Q. Is it not a fact that the report of the committee on endowment rank was acted on on the 21st day of June—the second day of the session? Turn to page 86 of the proceedings of the Minneapolis session. A. (After examining :) That is correct.

Q. Is it not also a fact that the proposed new laws you speak of were not acted upon until the next day? A. Yes, that seems to be correct.

Q. Then you desire to modify your answer, do you not? A. In what respect?

Q. That the new laws went into effect before this insurance branch was adopted? A. Yes sir; so far as that is concerned.

* * * * *

Q. Now my question is, if it is not a fact that prior to 1899 every alteration in the objects of the order proposed in and adopted by the national council has been submitted to the members of the order for a vote thereon, as required by this section 2, article 2? A. Well, I think that is correct.

* * * * *

127 Q. And is it not also a fact that in each instance when an alteration has been made in the objects of the order that the same has become valid and effective only after being approved by a majority vote of the members? A. Yes, sir.

Q. And in every instance when an alteration has been adopted in the national council, and upon being submitted to the members for

a vote, has not been approved by a majority of the same, it has failed to become valid or effective? A. That is correct.

Q. I understand you to say then that every proposed alteration in the objects of the order has been submitted to the members of the order except this insurance branch?

Mr. WILLIAMS: The question calls for the opinion of the witness on matters of law and is objected to on that ground.

Mr. BIGELOW: I am calling for the facts; not the opinion of the witness.

A. I am under that impression.

Q. Is it not true that in many instances, notwithstanding the national council has adopted alterations in the objects of the order, that the same failed to become valid or effective because they were submitted to the members of the order for a vote and were not approved by a majority? A. That is correct.

Mr. WILLIAMS: Same objection to question and answer, on the ground that the opinion of the witness is called for, and that the question also calls for an answer as to matters which are of record and ought to be settled by the record and not by the witness's statement.

128 Q. Is it not a fact that on two occasions prior to 1899 you yourself formulated an insurance plan for the order and presented it to the national council which adopted it and that on submission thereof to the members of the order, it in each instance failed to receive a majority vote and became of no effect?

Mr. WILLIAMS: That is objected to on the ground that it is not responsive to the direct examination and also as immaterial.

A. That is a fact, but it was 15 years or more before the Minneapolis session, by which time a large majority of those opposed to it before, were in favor of it.

Mr. BIGELOW: I object to the latter part of the answer of the witness as being a mere matter of opinion.

Mr. WILLIAMS: We object to the entry of the above objection on the ground that the defendant's counsel has made the witness his own for the purposes of that question.

Mr. BIGELOW: In response to that objection, counsel for the defendant says that he called for a categorical answer to the question and not for the opinion of the witness.

Q. Why then was the insurance branch not submitted to the members of the order for their approval?

Mr. WILLIAMS: Same objection.

A. You speak of 1899.

Q. Yes. A. I can't answer that.

* * * * *

129 Q. Referring to page 86 of the proceedings of the Minneapolis session you will find this: "P. S. C. Collins, of Pennsylvania, moved to go into committee of the whole to consider the same, (meaning the report of the committee on endowment rank), upon which the ayes and nays were called by several members, which the national council refused to entertain." Who were the several members who made that call? A. I don't know. Raymond of Pennsylvania was one, I think.

Q. Was E. T. Keeton, of Virginia another? A. Very likely.

Q. Was Thomas Sanger another? A. I can't say. I can't go into details. I admit that there were several members present who endeavored to have the ayes and nays called.

Q. Continuing the report says: "The motion of P. S. C. Collins was then agreed to and the national council resolved itself into a committee." Do you know by what vote? A. No; I do not.

Q. Were the votes counted on that? A. I don't recollect.

Q. Continuing the report further says: "Subsequently the committee arose and reported that they had adopted the report of the committee without amendment. P. S. C. Collins of Pennsylvania moved to adopt the report of the committee of the whole. The ayes and nays were again called for, and the national councilor refused to entertain the call." Do you know by whom they were called? A. The same people.

130 Q. How many of them were there who made the call? A. I couldn't say.

Q. As many as five? A. There was enough of them there to have made five, if they wanted to.

Q. Continuing, the report says, "The motion of P. S. C. Collins was then agreed to." Can you tell by what vote? A. No: I can't.

Q. Have you any record of the proceedings of the committee of the whole on this report? A. I do not think I have.

Q. There does not appear any record of the proceedings had in the committee of the whole on this report? A. Well, that wouldn't appear in the proceedings. That was the object of going into committee of the whole.

Q. So that the action of the committee in considering this report would not appear upon the minutes of the national council? A. No.

Q. I ask you to refer to article 22 of the national council constitution, Exhibit E to the bill of complaint, page 68, which is as follows: "Debate.—This council shall be governed in debate and in the transaction of business by Matthias's Manual, where there is no law of the order to the contrary." I will ask you to refer to page 34 of this manual, note, which is as follows: "Division may be taken on the call of one member but to take the ayes and nays requires the call to be seconded or made by at least two members." And also on page 112: "Ayes and nays.—In announcing that the ayes and nays are ordered to be taken, the president should say,

131 "The ayes and nays are required by Mr. Blank and Mr. Blank. The secretary will call the names of the members."

As I understand it, these are the provisions of that manual which govern the calling for the aye and nay vote. I will ask you why an aye and nay vote was not allowed accordingly at the Minneapolis session?

Mr. BIRNEY: That is objected to as being incompetent and calling for the opinion of the witness and as immaterial to any issue in this cause.

A. In answer to that question, I will give the opinion of somebody else, not my own. The national councillor on the call for the ayes and nays made the statement that Matthias's Manual said when the ayes and nays were ordered, and he took the position that a vote of the national council was necessary to call for the ayes and nays, in the absence of any law of the national council providing for the calling the ayes and nays. That was his decision.

Mr. WILLIAMS: Do you mean his ruling?

A. That was his ruling. That was his reason why he refused to call the ayes and nays.

Q. And that was the only reason he gave for it? A. Yes.

Q. Don't you remember he made the assertion that Pennsylvania was not running the national council? A. He is said to have made that remark. I didn't hear it.

Mr. WILLIAMS: The answer of the witness is objected to for the reason that it shows that the witness heard no such statement.

Q. But you were present, were you not? A. Yes, sir.

132 Q. On page 188, proceedings of the Minneapolis session, it is stated that the committee on endowment rank submitted a supplementary report which was referred to the board of control of the beneficiary degree. What was this report? A. I don't remember.

Q. Do you know where it is? A. No.

Q. On page 208 of the printed proceedings of the Minneapolis session appears this: "New question in the order of business was adopted: 11. Does any member desire to join the beneficiary degree?" By the adoption of that, the councillor of every subordinate council is required to ask at every meeting of his council that question, is he not? A. Yes, sir.

Q. By section 13 of the laws creating the beneficiary degree or insurance branch, it is provided that the insurance branch shall insure members of the order, their wives, and members of duly recognized women's auxiliary for \$500 to \$3000. As I understand it, women were not and are not eligible to membership in the Junior Order of United American Mechanics, are they? A. No.

Q. Can you tell me how it was that the committee on endowment rank could determine that there would ever be a women's auxiliary? A. I cannot answer for them.

Q. There was no such thing in the order then? A. No sir; not yet. I can only answer that at same session the committee reported in favor of a women's auxiliary. The action is part of the business, and a rule was made for a special order for the consideration of that business. I think that was postponed. 133 Nothing was done with it. Possibly this committee on endowment provided for that.

A. By section 4, laws of the insurance branch, Minneapolis proceedings, page 83, it is provided as follows: "Within five days from the close of this session, the national board of control shall hold its first annual session and organize and at once and proceed to promulgate laws, rules and regulations for the beneficiary degree, and establish the degree among the councils of the order." Why, was this great haste desired?

Mr. BIRNEY: Objected to as immaterial and a statement of a conclusion of counsel.

A. If you will allow me, I would like to say that this beneficiary degree was created and adopted by the national counsel largely in response to the wishes of the western part of the order's membership.

Mr. BIGELOW: I object to that as not responsive.

The WITNESS: I want to answer the whole thing as far as the beneficiary degree is concerned.

134 Mr. BIRNEY: He has asked you why. You can go on with your answer.

The WITNESS: The members in the eastern part of the country did not care a great deal for this beneficiary degree, but the West claimed that they entered largely into competition with similar organizations in the West, and stated that if it was adopted, they could largely increase their membership, and as long as the matter was optional, and the members were not compelled to join, they were perfectly willing that the West should have it. So far as I know, very few members in the East went into it. I myself was too old to go into it and I never made a study of it.

Q. As a matter of fact, the "East" as you term it, had no opportunity of judging whether it was in favor of it or not, according to your testimony. The printed reports of the committee were not published and no knowledge was had as to what the report would be or what kind of an insurance scheme would be reported: is that correct? A. Yes: they had as much information as they generally have. The matter of endowment had been discussed to the national council and through the papers of the order for several years before the Minneapolis session, and this came about at the Louisville session in 1898, and through the recommendation of the national councillor to the effect that it was time that—

Mr. BIGELOW: All this is objected to as not being material or responsive to my question.

135 The WITNESS: —that it was time the national council should cease to advertise the payment of funeral benefits, over which they had no control. He favored the adoption by the national council of some plan of paying funeral benefits.

Q. It appears from pages 190 and 207 of the Minneapolis proceedings that \$5,000 was appropriated for this beneficiary degree or insurance branch. That was on the last day of the session, was it not?
A. Yes.

Q. You don't mean to say that the order in the East had any knowledge whatever prior to that time that \$5,000 of the order's money would be devoted to starting this insurance branch? A. No: but it was made in the nature of a loan.

Q. Now, my question is, wasn't the real object of this resolution passed on the last day of the session, to start this insurance branch and get it well under way before the State councils could meet and have an opportunity to take any action against it? A. I can't answer.

Q. But it does appear that on the eve of the adjournment \$5,000 of the order's funds were appropriated? —. Yes sir: and it also appears that it was done unanimously. No,—I beg your pardon, 102 ayes to 33 nays.

Mr. BIGELOW: I object to the answer of the witness as not being responsive.

Mr. WILLIAMS (to witness): Where did you read that from?

A. At the top of page 207, proceedings of 1899.

136 Q. By section 17, laws governing insurance branch, it was made the duty of every subordinate council to act as agent for the insurance branch, receive and forward applications, collect fees and assessments, and perform such other duties as may be required by the laws of the beneficiary degree or rules of its board of control. Prior to that time there were no provisions in the laws of the order which imposed any such duties or obligations upon subordinate councils were there?

Mr. BIRNEY: Objected to as being a matter to be proved by the records.

A. No.

Q. And the duties of subordinate councils are prescribed by the national council's constitution and the general laws of the order; is that not right? A. No, sir, largely by the by-laws of the subordinate council.

Q. But I am speaking of its duties to the order? A. Well, the national council didn't try to regulate the subordinate councils.

Q. But they undertook to regulate it in this instance by this provision? A. Will you read the law you refer to?

Q. (Reading from Minneapolis proceedings, page 84, section 17:)
"The board shall have authority to use such means for the advancement of the beneficiary degree of the order as they may deem necessary, and to provide such means of communication with the mem-

bership thereof as they may deem for the best interests of the degree. And it is hereby made the duty of the financial secretary of all subordinate councils of the Jr. O. U. A. M., or of any recognized auxiliary thereof, to receive applications for membership in the beneficiary degree, and to forward the same to the board, 137 and to collect all fees or assessments that may be due the board thereunder, and to perform such other duties as may be required by the laws of the beneficiary degree or the rules of the board." Now, my question is, was there any law of the national council or of the order which imposed any such duties or obligations on the subordinate councils or their officers prior to that?

Mr. WILLIAMS: Same objection.

A. No.

Q. By section 20, it is provided as follows: "It shall be the duty of the board to attend the sessions of the national council at the expense of the beneficiary degree, and they shall have all the rights and privileges of regular members of the national council. They shall prepare and submit to the national council at each regular session a full and complete report of their acts and decisions and the condition of the beneficiary degree." What I want to call your attention to particularly about that is this: That the officers of the board of control of the beneficiary degree shall have all the rights and privileges of regular members of the national council. The membership of the national council is fixed by article 4 of its constitution, Exhibit E to the bill, page 44. I will ask you to refer to that and state if there is any provision therein which allows members of the board of control of the beneficiary degree to have all the rights and privileges of regular members of the national council?

Mr. WILLIAMS: Note an objection to this entire line of questions on the beneficiary degree as wholly immaterial and outside 138 of any issue involved in this case, and for the additional reason that the questions are all argumentative, and call for the opinion of the witness on matters of record, which if material at all, are questions for the court on the record.

Mr. BIGELOW: Counsel for the defendant calls attention to the fact that the complainant has offered in evidence pages 82 to 86 of the proceedings of the Minneapolis session as a whole, and he has the right to cross examine the witness upon their contents.

A. My answer is that these are not the laws that are governing the order at the present time.

Q. But these laws were in force at the time this beneficiary degree was adopted? A. Yes.

139 Q. And you have so testified? A. Yes.

Mr. WILLIAMS: By consent the objection made applies to all questions on this line, without being repeated to each question.

My question was, if article 4 of the national council's constitution,

which you say was in force at that time and which fixed the membership of the national council, provided that the officers of the board of control of the beneficiary degree shall have all the rights and privileges of regular members of the national council?

A. No, it could not be in those laws, because those laws, as I say, were in force at the time of the adoption of this beneficiary degree.

Q. Then this section 20, laws of the insurance branch, makes a change in the constitution of the national council, does it not? A. The members of the board of control are all members of the national council. The appointments made are all members of the national council, and the new law, there to which you refer simply changes——

Q. Simply changes the old constitution? A. Well, I am not prepared to say it changed it. It simply gives them the same privileges as it does the orphans' home trustees.

* * * * *

140 NOTE.—At the former session this witness gave the amount of the appropriation for the use of the insurance branch as \$7,500. (R., p. —) At this session he explained that he had made a mistake in stating the amount of the appropriation, which was but \$5,000.

Q. Will you tell us how much of this \$5,000 was advanced pursuant to the resolution appropriating it?

Mr. BIRNEY: Objected to as immaterial.

A. I can't tell exactly. I think not more than half of it.

Q. Can you tell us when it was advanced?

Mr. BIRNEY: Objected to.

A. At different times. The bulk of it was advanced soon after the Minneapolis session had adopted the plan.

Q. How many applications have been made for membership in this insurance branch?

Mr. BIRNEY: Objected to as immaterial.

A. I can't answer that.

Q. Will you refer to the proceedings of the Philadelphia session of 1900, page 108, and state if that is the financial statement of the condition of the insurance branch made by its board of control at the time? A. That is the report submitted by the board of control.

Mr. BIGELOW: If counsel for the complainant will agree that this statement may be considered in evidence, I will not question the witness about it.

Mr. BIRNEY: So far as it is relevant to any issue in the proceedings, we will agree to that.

141 Q. It appears from that report of the liabilities of the insurance branch at that time that they were \$2,042.80, and in addition the sum of \$1894.30 which it had received from the national council on account of the appropriation of \$5,000, made at the Minneapolis session was owing. It thus appears that \$1894.30 of the \$5,000 was appropriated. Why was not the balance of the \$5,000 paid to the insurance branch to liquidate its debts? A. I don't expect there was any application made for it. A large majority of these liabilities was for salaries, and probably they felt some little compunction about going to that fund for salaries.

Q. Is not one of the main reasons why the balance of \$5,000 was not turned over to the insurance branch, because the State councils of New York, New Jersey, Pennsylvania, Virginia and the District of Columbia had refused to pay the *per capita* tax levied at the Minneapolis session. A. No sir: that was not the reason.

Q. It is not a fact that on September 28, 1899, the board of officers of the national council suspended further advances to the insurance branch because the five State councils I have mentioned had refused to pay the *per capita* tax?

Mr. BIRNEY: Objected to as calling for a statement of what should appear on the record. If counsel means to refer to a record, he should do so in terms.

A. Do you want me to read this? Page 58, board of officers' report, September 28, 1899, the board notified the special organizers to suspend operations after October 10, 1899, and also notified Brother E. H. Godfrey, president of the beneficiary degree, that it would be necessary to suspend further advances to the beneficiary degree on account of the \$5,000 loan authorized by the national council: also notified the finance committee to that effect."

142 Of course, that is the fact, that the national council saw the necessity for economizing, not only in the direction of the board of control, but in every way: it was not that they did not have the money.

Mr. BIRNEY: Question and answer objected to as irrelevant.

Q. It is a fact that the five State councils which I have mentioned at their annual sessions after the Minneapolis convention refused to recognize this insurance branch, and refused to recognize the validity of the laws relating thereto, and to pay the *per capita* tax to the national council, is that not so? A. The State councils which were in existence at that time did so. Since then we have organized State councils in New York and in Virginia.

Mr. BIGELOW: I object to the latter part of the answer. I called for a specific fact and directed the witness' attention to that fact, and I object to his further statement.

Q. Notwithstanding this new object not being approved by a majority of the votes of the order, and having been repudiated by the

five State councils mentioned, yet the sum of \$1894.30 was nevertheless advanced to the beneficiary degree; is that so? A. Yes sir.

Q. The resolution appropriating this \$5,000 required the same to be repaid in one year, is that not so? A. Yes.

Q. I understand you to testify that it has not been repaid? A. Yes.

Q. And it has not now been repaid? A. No; it has not been repaid.

143 Q. I will ask you if it is not a fact that even since this \$1894.30 was advanced by the board of officers, the national council had not advanced further sums to the beneficiary degree?

A. Well, to be specific in my answer, I would say, no; that the finance committee advanced it.

Q. You say that about half of the money that was appropriated has been advanced to the beneficiary degree? A. Yes.

Q. It appears from the report just referred to that the total cash on hand of the beneficiary degree was \$75.56, and that its liabilities were \$2,042.80 besides the \$1894.30 advanced by the national council, and besides this it had a risk on a total amount of insurance of \$363,000. Notwithstanding this was the financial condition of the insurance branch, and that it had failed to repay the money already advanced within the year as provided by the resolution appropriating it, yet the board of officers of the national council or the finance committee has appropriated several hundred dollars more to the beneficiary degree?

Mr. WILLIAMS: Objected to as immaterial and irrelevant.

A. Yes, sir.

Q. It appears on page 110 of the official proceedings of the session of 1899, that the estimated expenses for the ensuing year for general purposes was fixed at \$28,000. A. Yes.

144 Q. And on that same page it appears that a tax was levied to meet these general expenses of 15 cents per member. How many members were there in the order at that time? A. Well, that was based on 180,000.

Q. And no special tax was levied for the insurance branch? A. No sir.

Q. Then, if I understand it, all the money that was advanced to the insurance branch was taken out of the fund realized from the *per capita* tax paid in for general purposes? A. Yes: it was a loan with the expectation that it would be returned.

Q. And that was paid out of the fund which was realized for meeting the general expenses of the order? A. Yes sir.

Q. You have stated that the insurance branch was optional. As a matter of fact it was organized not for the benefit of the entire order, but only for the benefit of those who are able to pay the premiums, and desire to join: Is that not so?

Mr. WILLIAMS: Objected to as being a matter of record.

A. I don't know whether it was organized for that purpose, but being voluntary, those who can't afford to go in, can't.

Q. Then it is no more for the benefit of the order than any ordinary insurance company would be: is it?

Mr. WILLIAMS: Objected to as calling — the conclusion of the witness.

145 A. As I stated before, it was created largely to meet the demand, occasioned by so many of these assessment organizations in the West, which came into competition with our organization. We didn't feel the necessity of it here so much.

Q. How many members are there in this section of the country you have referred to as the West? A. I can't answer that. What is the West?

Q. Are there as many as 10,000? You have spoken of the West. I ask you how many members there are in that section you have referred to? A. Well, we are in the habit of speaking of the West. We never speak of the center; so I don't know.

Q. How many members are there in the West as you understand it, say, west of the Mississippi river? A. Well, that is specific. I don't suppose there are 10,000 west of the Mississippi river.

Q. Then there would be about 170,000 or more in the East? A. Yes sir.

Q. If this insurance branch was to be paid for out of the general funds of the order, necessarily, the East, as you term it, would pay nearly the whole expense: is that not so? A. Yes sir. The strong always have to help the weak.

Q. You spoke of the fact that you were too old to join this insurance branch. Then it has an age limit. What is that age limit? A. I told you I haven't made any study of it to answer the question, but I think the limit of the beneficiary membership is 50 years.

Q. There are a great many members who are too old to join it? A. Well, there are quite a good many.

* * * * *

146 Q. You spoke in your direct examination of the law committee presenting a report to the national council at the Minneapolis session? A. Yes.

Q. That was on June 22, 1899,—the third day of the session? A. Yes, sir.

Q. I ask you to refer to page 115 of the official report of the proceedings of the Minneapolis session, which has been offered in evidence by Mr. Williams. It appears from that page that immediately upon the presentation of the report of the law committee that this action was taken. "P. S. C. Collins of Pennsylvania moved that the national council resolve itself into a committee of the whole for the consideration of the report of the law committee. A call for the ayes and nays was then made and ruled out by the national councillor, when the following appeal was presented: We hereby appeal

from the ruling of the national councillor in refusing to recognize the call for the ayes and nays. Charles N. Raymond, Thos. Sanger, E. T. Keeton. The question being stated: Shall the decision of the national councillor stand as the judgment of this national council? A division was called, resulting, ayes 76, nays 46. So the decision of the national councillor was sustained. The national council then went into committee of the whole, with P. N. C. Powell in the chair." Now, do you know how many others called for the ayes and nays besides those mentioned? A. I do not.

Q. Those votes were actually counted, were they not? A. This division, yes sir.

Q. You stated in your testimony, page 7, that there were in the neighborhood of 190 votes cast on the alleged adoption of
147 these laws. Are you not in error about that? A. I got my 190 members who were attending the session of the body by the vote shown to have been cast in the election of officers. That was the basis of my saying that there was that many present. The fact that only 122 voted at this time does not show that that was all that was there.

Q. But that shows that that was all that voted at that particular time. A. Yes, on that particular question.

Q. Then, as to the vote you were asked about, 76 plus 46 equals 122 by actual count, is correct, is it not? A. That is simply a vote on the decision of the national councillor on appeal.

Q. Does that not show the number present at the time the laws were considered? A. No sir.

Q. Doesn't it show the number who voted? A. It shows the number who voted on that appeal.

Q. Didn't all who were present vote on that appeal? A. No sir.

Q. How do you know? A. I didn't myself.

Q. Was it not your duty to vote on that appeal?

Mr. BIRNEY: Objected to as immaterial.

A. I don't consider it a duty. It is a privilege. If a man doesn't choose to take advantage of it, it is his loss.

Q. You haven't then any way of fixing the exact number of members present other than that, have you? A. No sir, but immediately after the adoption of the laws we have a vote there.

148 Q. That is different. A. That is 139.

Q. You say you have 139 immediately after. Then your estimate of 190 as being the total number cast was a little too high, was it not?

Mr. BIRNEY: Objected to as not a necessary conclusion.

A. On the vote for election there was 185 votes polled.

Mr. BIGELOW: I object to that. That was on the first day of the session, was it not? A. Yes, sir.

Q. And this is the third? A. Yes. * * *

Q. Do you know of any other member who was present and didn't vote on this 76 to 46? A. I do not.

Q. So far as you know, that represents the exact number of members present except yourself; is that right? A. So far as I can testify to.

Q. This appeal from the decision of the chair which resulted in 76 to 46 was made on the same day that the laws were adopted, was it not? A. Yes sir.

Q. Have you any record of the action on this report of the law committee in the committee of the whole? A. There was little or nothing done prior to the meeting of the national council. After this report that was sent to every member of the body had gotten into the hands of the members of the national council, there was some dissatisfaction expressed at certain things that was in it, and the chairman of the committee expressed the wish——

Mr. BIGELOW: All this is not in response to my question.

149 A. Yes, but you are asking me for the reasons and I would like to give them. There was a good deal of dissatisfaction expressed at different things in the report, and he said he hoped the report of the committee would not be killed in the house of its friends, and to wait until the meeting at Minneapolis when an invitation would be extended to every member to attend a meeting of the committee there and state their objections, and an invitation was extended in the national council,—in the body—for all members to meet the law committee in their rooms that evening to consider any objections they had. As a consequence, in the meeting of the committee of the whole, the chairman of the committee presented these amendments, as they had been agreed to in that meeting. It was in that form they were adopted. There was very little change made in the committee of the whole.

Q. So then as I understand you, the real changes in this report were made at the meeting of the law committee with certain invited members, prior to going into committee of the whole? A. I object to the word- "certain invited members." Every member was notified.

Q. When? A. In the session.

Q. At what time? A. I think it was the first day.

Q. Where were they to meet? A. I don't know. I didn't go.

Q. You didn't go. How many did go? A. I don't know. I know a particular person, a particular friend of mine,—who did go and accomplished the object for which he went.

150 Mr. BIGELOW: Objected to as hearsay testimony.

Q. You don't know where this meeting was to be held, do you? A. No, sir.

Q. Was it to be held at the headquarters of the law committee? A. I said I don't know where it was to be held.

Q. So all you can remember about it is that an invitation was extended to the national council in its session for the members to

meet the law committee and go over this report. But you don't know how many members attended that meeting or where it was held? A. I do not. I know if anyone didn't go there it was their own fault.

Q. And that nearly all the changes which were made in the report of the law committee, you have said, were made at that meeting? A. Yes, sir.

Q. How do you know that to be a fact? Q. Why, I told you that when the chairman of the committee submitted the report, when it came up for action in the committee of the whole, he read these amendments which had been agreed upon in this meeting.

Q. So that if I understand you, in the committee of the whole, the chairman of the law committee presented a supplementary report? A. Yes.

Q. Setting forth certain changes in the original report? A. Yes, sir.

151 Q. I notice that the new laws, as printed in the appendix, pages 7 to 70, Exhibit D to the bill, contain many provisions which are not in the report of the committee as originally made, and also some provisions that are radically different from the law committee's report of the same. Inasmuch as the printed proceedings of the Minneapolis session do not show that any amendments or new laws were offered or that any changes were made in the laws as reported by that committee, I shall ask you to compare the original report of the law committee with the new laws claimed to have been adopted, and explain how these changes were made. * * * Taking up the national council constitution as claimed to have been adopted at the Minneapolis session, I desire to call your attention, first, to article 5, section 1, as reported by the law committee, as follows: "The objects of the order shall be, 1st, to maintain and promote the interest of Americans and shield them from the depressing effects of foreign competition." As claimed to have been adopted in that session, that object is altered as follows: "To maintain and promote the interests of Americans and shield them from the depressing effects of unrestricted immigration." How was this alteration made? A. I cannot answer that question, whether it was settled in this meeting, or whether it took place in the committee of the whole?

Q. Was any vote taken upon that change in the committee of the whole? A. I don't remember that any vote at all was taken in the committee of the whole, for the reason that the chairman made these different changes, and occasionally some member would get up and suggest a change, and quite frequently the chairman said,
152 "Well, I don't know but that would be better," and the change was made by general consent without referring it to a vote.

Q. So that in none of the instances where a change was made in the proposed laws as reported, was there any vote taken? A. The

chairman of the committee of the whole simply said, "If there is no objection, it will be adopted as suggested."

Q. The first object of the order as reported by the law committee is the same as it existed at that time? A. Yes, it seems so to me.

Q. As contained in article 2, section 1, of the national constitution? A. Yes, sir.

Q. Notwithstanding the law committee suggested no alteration, the object was nevertheless changed at the Minneapolis session? A. Yes.

Q. You can't tell whether that was effected in committee of the whole or whether it was effected at the meeting of the law committee and the invited members of the national council you have alluded to? A. No, but I am inclined to think it was done at this meeting, because I have no recollection of any debate on this change.

Q. So then, you think it was not done in the committee of the whole, but at this other meeting? A. It certainly was adopted by the committee of the whole when the committee of the whole adopted what was done in this meeting.

Q. No prior notice of this proposed alteration in the first object of the order was given either to the State or subordinate councils or members of the order prior to the Minneapolis session? A.

153 Notice was given that there would be a general amendment and everybody must be there, prepared to amend or approve as reported.

Q. But the report of the law committee suggested no change whatever in the first object of the order? A. That was their report.

Q. And yet without any notice whatever to the State or subordinate councils, or the members, the Minneapolis session in the manner you have indicated altered the first object of the order by striking out the words "foreign competition" and inserting the words "unrestricted immigration"? A. Yes, sir.

Q. Has this alteration in the first object of the order ever been submitted to the members of the order for a vote thereon? A. It has not.

Q. Then, if I understand your testimony correctly, this alteration in the first object, and the addition of the insurance branch as an object of the order, are the only alterations in the objects of the order since the institution of the national council that have not been submitted to the members of the order for a vote? A. So far as the objects of the order are concerned, I believe that is correct.

Q. Article 4, section 1, Exhibit E to the bill of complaint, page 44, national council constitution in force during and prior to the Minneapolis session, fixed the membership in the national council, and article 7, section 2, page 9, of the report of the law committee is exactly the same. This suggested no change in the membership

154 or representation of State councils in the national council. Yet as claimed to have been adopted, great change is made, as will appear by comparison, and the number of representatives of

State councils to the national council is thereby greatly reduced. Can you tell us how that change was effected? A. I think that was done in the same way. I remember that in the committee of the whole an effort was made to change that, but it was not done. It was carried.

Q. An effort was made to change what? A. To change the report of the committee.

Q. You mean the original report or the supplementary report? A. If the supplementary report made any change or difference in the original report, that is what I refer to.

Q. My question is, Was this change in the original report of the law committee made by this supplementary report, or was the change made in the committee of the whole? A. I could not say.

Q. The State councils of New York, New Jersey, Pennsylvania and the District of Columbia had at that time fully two-thirds of the entire membership of the order? A. I guess so.

Q. By the operation of this change in the constitution as reported by the law committee, a reduction was made of the number of representatives of these five States in the national council from 59 to 28: Is that not so? A. I don't know whether that is so. I know there was a general reduction made throughout the whole organization. It affected every State.

Q. Well, you know that these five State councils had 59 representatives? A. No, I don't.

155 Q. And were entitled to that many? A. (After examining proceedings.) Yes.

Q. And that the other State councils having less than one-third of the membership were given 103 representatives? A. Yes.

Q. And that 10 State councils having 2264 members were entitled to 30 representatives? A. Yes.

Q. And that the five State councils having over 125,000 members, which I have mentioned,—that is, over 50 times as many members as the 10 State councils mentioned, have but 28 representatives? A. Yes.

* * * * *

Q. Article 7, section 8, page 10, new laws, adds to the officers of the national council the following: "Chief supreme judge and two supreme judges, which were not mentioned in the original report of the law committee." Do you know whether they were added in this committee of the whole or in this prior meeting that you have spoken of? A. I do not.

* * * * *

Q. Prior to that, the councils of the order always had a right to buy the paraphernalia where they pleased? A. Yes sir.

Q. Following up that provision the national council or board of officers made a contract with one Stephen Collins for seven years to

furnish the paraphernalia. Is that correct? A. Hardly correct. They made the contract with the American Publishing Co.

156 Q. Stephen Collins is practically the American Publishing Co.? A. That I don't know. He is the manager of it, of course, but how many stockholders there are I don't know. I have been a stockholder myself two or three times.

Q. Article 9, section 4, constitution as original reported, provided that the supreme judges of the national judiciary shall be nominated by the national councilor and confirmed by a majority vote of the national council, but as claimed to have been adopted, the supreme judges are to be appointed by the national board of officers, section 5, article 9. Can you tell how that change was effected?

Mr. WILLIAMS: This question and the continuation of the line of questions relating to how said changes were effected is objected to on the ground that however affected, they were all ratified by the committee of the whole and embraced in the report of the committee of the whole, and it is therefore immaterial how they were made.

A. And subsequently adopted by the national council.

Mr. BIGELOW: In answer to this objection, counsel for the defendant says that the law in that connection expressly provided how amendments or alterations to the objects of the order should be made, and the purpose of this cross examination is to show that the changes referred to were not made according to any law.

Thereupon the parties adjourned until Thursday, November 12th, at 12:30 m. to continue the cross examination of the witness on the stand.

JOSEPH HARPER, *Examiner.*

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WASHINGTON, D. C.,
TUESDAY, November 12, 1901—1 p. m.

The parties met pursuant to adjournment at the same place.

Present for complainant: Mr. A. W. Shunk and later Mr. Williams.

Present for defendants: Mr. Bigelow.

Cross examination of EDWARD S. DEEMER continued by Mr. BIGELOW:

* * * * *

Q. National laws, division 1, chapter 11, section 1, page 33, providing for compensation for attendance upon the meetings of the national council is different from the same section as reported. Was this change made in the same way? A. I think that was changed in the committee of the whole. I have some sort of recollection of that particular section being discussed by the committee of the whole.

Q. The result of that change was [that the national representative

or representatives from the State councils to the national council were to have their expenses paid to the national council sessions, including $2\frac{1}{2}$ cents per mile to and from their place of residence to the national council, and \$3.00 *per diem* during the session of the national council and for one day prior thereto. Is that correct? A. I think so.

Q. The effect of making this change was to add an expense of about \$10,000 a year to the national council session, was it
158 not? A. It doesn't cost \$10,000.

Q. The reason it doesn't cost \$10,000 is because at the last two sessions of the national council all the State councils were not represented? A. Yes, that is true, but I don't believe that the difference would make up nearly \$4,000.

Q. How much has been expended in attendance of representatives at the sessions of Philadelphia and Buffalo? A. As noted here in the proceedings of 1900, page 223, \$8,763.27. At the session at Buffalo it was less than \$7,000.

Q. At the sessions of Philadelphia and Buffalo, the State councils of New York, New Jersey, Virginia and the District of Columbia were not represented. A. The State council of New York was represented.

Q. What State council? A. The Loyal State council.

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Q. Were these new laws, new national constitution, or new general laws ever submitted to a vote of the members of the order? A. No; no constitution was ever referred to the members of the order.

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Q. In 1898 an alteration was made in the objects of the order by adding the orphans' home as a 6th object. Do you know whether there were any amendments to the general laws or national council constitution at the sessions of 1896, 1897, or 1898, besides this 6th object
159 of the orphans' home? A. My recollection is that 1897 was the session at Pittsburg and that there were quite a number of amendments acted on.

Q. Were some of them adopted? A. My recollection is that some of them were.

Q. Is it not a fact that amendments to the constitution and general laws were effected at each of those sessions in 1896, 1897, and 1898? A. I think so; I cannot specify though.

Q. You can look at the records and tell, can't you? A. Well, at nearly every session, there is a change of some kind made.

Q. Do you feel certain that there were changes at all these sessions I have referred to? A. I am positive as to 1897.

Q. You speak of H. H. Eddy submitting a supplementary report to the committee of the whole. Do you know what became of that report? A. My recollection is that at the conclusion, or rather, when the laws were adopted, that they were referred back to the

committee to make any changes that might be necessary in order to make them conform, and then there was a general fixing up. I don't remember that I ever received a copy of the amendments as they were in Eddy's hands.

Q. You mean that the laws as amended were referred back to the same law committee to make such other amendments or corrections as would make the laws harmonize as a whole? A. That is the idea exactly.

Q. Who were that committee? A. That was the same committee, he and Flint.

Q. This supplementary report that Eddy presented was never published prior to the Minneapolis session? A. No.

160 Q. You were the secretary of the national council and also the secretary of the committee of the whole? A. Yes sir.

Q. Have you any record anywhere of how these changes were made to which I have alluded? A. I started a record, but as very nearly everything was done by general consent, there were no minutes written up.

Q. That is, all the amendments were made in accordance with this supplementary report which Mr. Eddy presented? A. Not entirely. There were other things that were suggested as he went along,—changes in verbiage and changes in the laws that were not very material, I suppose, and when they were suggested, he simply said, "I guess that would be better," and he would make the change.

Q. I believe it is claimed that when the committee arose and reported its action to the national council in session that the laws, as adopted, were then adopted as a whole? A. When the committee arose and reported the laws as amended in the committee of the whole, my recollection is that a motion was made that the report of the committee of the whole be accepted, and it was adopted.

Q. Immediately after adopting these new laws, the national council proceeded to change the name of the order to the United Americans; is that not so? A. Yes sir.

161 Q. That change has never been submitted to the members of the order for a vote, has it? A. No sir; for the reason that there was another organization of the kind chartered in the courts of Philadelphia, and it threatened to make trouble. That is the reason that this thing dropped. I would like to correct that answer. You asked me whether it had ever been referred to the members of the order. No, the new laws had not been referred to the members of the order.

Q. At the top of page 209, Minneapolis proceedings, it appears that the following was then read: Resolved, that "the national law committee be empowered and authorized to correct any errors in the constitution or general laws, to conform to the amendments made." That is the action of the national council to which you referred a few minutes ago? A. Yes, that was the authority.

Q. And you say that the law committee to whom this was referred were the same members who prepared the laws? A. Yes sir.

Q. And the amendments spoken of were the amendments which we have gone over? A. Yes sir.

Q. Do you know what corrections or changes the law committee made? A. No, I do not.

Q. You haven't any record of that? A. No sir.

Q. Where did the law committee meet to make these corrections? A. I don't know.

Q. Was it at Atlantic City? A. No, I don't think that it was.

162 Q. You haven't any record of the changes made in the committee of the whole, you said? A. Yes, sir.

Q. And you haven't any record of what changes the national laws committee made when the laws were referred back to them for correction? A. No, sir.

Q. Then you can't say, as a matter of fact, that the new laws as contained in Exhibit C, pages 7 to 70, are the laws as actually adopted at Minneapolis, can you? A. No. I can't say positively. They have been generally accepted as these laws.

Q. Been accepted by the adherents of the complainant National Council? A. Yes; accepted by the national council.

Q. It appears from the proceedings of 1900, page 54, as follows: "Report of board of officers, June 24, 1899: The board of officers met at Minneapolis, Minnesota, and instructed the national secretary to have Brother F. H. Cody take immediate steps toward having the name, Junior Order of United American Mechanics, copyrighted. A meeting of the national judiciary was then called in Minneapolis on June 24, and at Atlantic City on July 1, 1899." Who were the members of the national judiciary? A. H. H. Eddy, A. D. Wilkin, and H. S. Barry.

Q. Where does H. H. Eddy reside? A. Denver, Colo.

Q. Where does A. D. Wilkin reside? A. Pittsburg is his home; I believe he is in Harrisburg.

Q. H. S. Barry? A. Baltimore, Md.

* * * * *

163 Q. Do you still hold to your answer that the sentiment of the members in regard to the insurance branch has been growing more and more in favor of it ever since? A. Yes sir.

Q. I understood you to say that there were about 183,000 members of the order, is that correct? A. No: I couldn't say 183,000. I don't think we ever had over 180,000.

Q. It appears from page 160, Philadelphia proceedings, national council of 1900, that the total number of certificates written by the beneficial degree or insurance branch was 311. One of those had been cancelled and one was terminated by death, thus making 309? A. Yes, sir; I believe that is correct.

Q. Now, in view of the fact that the beneficial degree has only

succeeded in issuing 309 certificates, do you still hold to your answer that this insurance scheme has grown popular with the order? A. I do; because they don't seem to have chosen that form is no reason why they don't approve of insurance.

* * * * *

Q. You also said that the members in the East didn't care a great deal for this beneficiary degree, but that they were perfectly willing for the West to have it. To whom did you refer when you said that they were perfectly willing for the West to have it? A. I didn't refer to anybody particularly.

Q. Then that was just a general impression? A. A general impression.

Q. But, as I understand your testimony, no one at all in the East, or West for that matter, had any prior knowledge that an appropriation of \$5,000 would be made to organize this insurance branch or beneficiary degree? A. I don't know what other people knew.

I didn't know it.

164 Q. Referring to a decision of the national councillor refusing to recognize the call for the yeas and nays, you said that the reason he stated for so doing was that according to Matthais' Manual, a vote of the national council was necessary to call for an aye and nay vote. Did I understand you correctly? A. I simply stated my impression of the reasons given by the national councillor. He claimed that there was no law of the national council specifying how the ayes and nays should be called, and Matthais said when the ayes and nays are ordered. His position was that the national council should order a call for the ayes and nays by a majority vote.

Q. Wasn't that ruling contrary to all rulings of the national councillor prior to that time? A. There was one occasion previously at Pittsburg when National Councillor Shanor refused to entertain a call for the ayes and nays on the ground that it was impeding business. That is the only other occasion when the national councillor refused to entertain a call.

Q. Can you refer to that occasion? A. I don't think it is on record. It was at Pittsburg.

Q. And prior to that national council session, the national councillor at the sessions has always recognized a call for the ayes and nays? A. Yes.

Q. Can you explain by what vote the insurance branch was declared adopted? A. No, I cannot.

165 Q. You said in your testimony at our last session that you claimed that the introduction of the beneficiary degree in the organization was simply carrying out more fully the object to establish a sick and funeral fund. My question is, does the beneficial degree pay sick benefits? A. I did not give that as my view. I stated that was the position taken by those who had inserted it.

Q. My question is, does the beneficiary degree pay sick benefits?

A. No, sir.

Q. It has no sick fund? A. No; I don't know of any sick fund.

Q. Does it pay funeral benefits either in any other sense than an ordinary life insurance company does? A. No, although I think it pays benefits if a man is maimed in the arm or leg; that would come under sick benefits.

Q. That is merely accident insurance, is it not, where a man is maimed? A. I am under the impression that the beneficiary degree pays benefits when a man loses an arm or leg.

Q. But it does not pay any benefit to a man who is ill, say from typhoid fever? A. No.

Q. So then, that is an accident insurance in addition to the life insurance that it has adopted of its own accord? A. Well, it is a part of the plan which was offered and adopted.

Q. It was not a part of the plan as presented to the national council, was it? A. It is a matter that I haven't been much interested in, and about all I know about it is the reading of the proof that came to me from the printer.

Q. I will refer you to page 84, Minneapolis proceedings, section 13 of the laws creating the beneficiary degree and ask you if it does not provide simply for life insurance? A. That is right.

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166 Q. Speaking of the changes made in the original report of the law committee you said that notice was given that there would be a general amendment and everybody must be there, meaning at Minneapolis, prepared to amend or approve as reported. Who gave any such notice as that? A. That is the law,—under the old law at that time. The law reads, article 25, section 2, old laws: "The proposed alterations or amendments shall be examined "by the committee on law and reported to the national council "at its next session together with such further amendments and "recommendations as may be deemed necessary to preserve the "consistency and sense of this constitution and the general laws." Now here is my answer: "Provided, that when the national council refers the general laws or the constitution of the national council to a committee for revision, such reference shall be sufficient notice of any proposed alterations or amendments."

Q. That does not answer my question, which I will ask the examiner to read. (Question repeated.) A. This is the notice that was given in the national council to the members who had any objections to this printed report to appear before them and state their objections. Brother Eddy gave that.

Q. That notice, as I understand you, was given on the first day of the session at Minneapolis? A. Yes sir.

Q. Speaking of the action of the law committee you said in your testimony at our last session that there was little or nothing done prior to the meeting of the national council? A. The examiner

didn't get my idea there. My recollection of what I said was that prior to the session of the national council, after this printed
 167 pamphlet had been in the hands of the members, it became known that there was considerable opposition to some of the items in it, and when Brother Eddy got to hear of it, he said, "Well, don't let us kill this in the house of its friends." That was the way I used that language.

Q. Did you send every member of the national council a copy of the report of the law committee? A. That report was printed in Petersburg, Virginia. We sent the wrappers down there already addressed, and they were mailed from there.

Q. You don't know as a matter of fact that they were mailed from there? A. I know I got a copy and I know a good many others got copies.

Q. But you don't know that all the members of the national council received copies? A. No, that is impossible. You put them in the mail with the address on, and the United States Government does the rest.

Q. But you didn't even put them in the mail? A. No, sir.

Q. Or see them put in? A. No, I simply furnished the addressed wrappers.

Q. Can you remember what provisions of these laws as reported occasioned this dissatisfaction among the members that you mentioned? A. No; one member had this, and another had that. In Pennsylvania, I think, the objection was that it limited the membership to 18 years of age. There was different people had different ideas about different things.

Q. Was that provision in regard to the age limit of 18 years changed? A. It is changed now, yes.

168 Q. Was it changed at Minneapolis? A. Yes. My direct information on this matter comes from G. Howell Arthur.

Mr. BIGELOW: I object to this statement as hearsay.

A. I simply want to give you my reason.

Q. You said that the chairman of the law committee extended an invitation to the national council in the body for all members to meet the law committee in their rooms that evening to consider any objections? A. No, I didn't say in their rooms, because you asked me particularly where the meeting was held.

Q. But I am now reading from your testimony as reported: "There was a good deal of dissatisfaction expressed at different things in the report, and he said he hoped the report of the committee would not be killed in the house of its friends, and to wait until the meeting at Minneapolis when an invitation would be extended to every member to attend a meeting of the committee there and state their objections, and an invitation was extended in the national council—in the body, for all members to meet the law committee in their rooms that evening to consider any objections they had." Didn't you testify to that? A. I don't remember say-

ing in their rooms. It depends altogether upon what their rooms were. If it means their bedroom, I don't know. I don't know where the meeting was held.

Q. The official proceedings of the Minneapolis session do not show that an invitation was extended in the national council to meet the law committee, as you have said. What do you say as to that? A. I simply say that there is a good bit said in the
169 national council that is not embodied in its report. A stenographer being present, I suppose, would note everything that was said and done, but a secretary keeping the records, simply records what is put formally before the body.

Q. How long did the committee of the whole remain in session? A. The minutes will show that; they were in session two or three different times. They adjourned to meet again.

Q. Can you refer me to the minutes of that meeting and tell me how long the committee of the whole was in session? A. (After examining). They were in session Thursday morning and a part of Thursday afternoon.

Q. Could you say four hours? A. Fully that.

Q. Any longer than that? A. I cannot specify that.

Q. Were all these laws read over in the committee of the whole? A. I think not. I think only the changes that had been agreed upon at this meeting.

Q. Did anybody enter the session while it was in committee of the whole? A. I can't answer that question. It is very likely that members entered and left.

Q. But you don't know. The vote of 139 you spoke of was taken some time after the new laws were adopted, was it not? A. No sir, immediately after the adoption of the laws, the very first thing that was done was offering this change of name. Then occurs that vote of 139.

Q. That was under consideration some time? A. I think it was.

170 Q. Do you know whether any members entered while that was under consideration or not? A. I cannot answer that.

Q. When were the proceedings of the Minneapolis session printed? A. I don't think they got out much before the 1st of November. I fix that date because I remember I was particularly anxious to get a copy of them to the State council of New York. They met along about the 20th of October. I just got a skeleton there.

Q. Did you send a copy to the State council of the District of Columbia? A. Yes.

Q. Are you sure of that? A. I am sure that the wrapper was addressed to them. I would like to explain that I don't address the wrappers at all. I have a clerk to do that and I have sufficient confidence in him to believe that what he does he does right.

Q. But you haven't sent here any proceedings of the sessions held in Philadelphia in June, 1900, or at Buffalo in June, 1901, have you? A. No sir; I can say that positively.

Q. And you haven't sent any credentials or blanks for reports to the State council of the District of Columbia, for the Philadelphia or Buffalo sessions? A. I am not positive about 1900. I am positive I did not for 1901.

Q. Article 1, section 2, national council constitution, Exhibit E, page 42, prescribing the powers of the national council, provides as follows: "Section 2. It shall also be a tribunal to which final
171 appeals shall be made on all matters emanating from State or subordinate councils." Article 20, section 2, constitution, provides for an appeal committee to examine all appeals and report the same to the national council at its session. I will ask you if it has not been the custom and procedure under these provisions of the constitution to have all matters of grievance arising in the order investigated by the appeal committee and reported to the national council for a final settlement? A. That was the plan up to the time of the Minneapolis session. The original suggestion of a State and national judiciary and their findings being final originated with one of the biggest insurgents in the United States—Fred Parker of New York.

Mr. BIGELOW: The latter part of the answer is objected to as not responsive to my question and as wholly immaterial and irrelevant.

Q. Under these sections which I have read, appeals have been taken to the national council and constructions have been placed upon the laws of the order by the very body which enacted them, in all matters arising under the laws, and appeals to the national council have received the construction and determination of that body as a whole; is that correct? A. Yes sir.

Q. And in every instance there has been a settlement? A. Yes.

Q. You say that at the Minneapolis session the national judiciary was instituted to take the place of this appeal committee and that it
172 is constituted as the only body to which final appeals shall be taken? A. That is correct. I would refer to the report of the law committee which shows that "Excepting that pursuant to the order of the national council, approving the recommendations of National Councillor Powell, that a judiciary department should be established, we suggest no radical change in the organic law of the order, except such changes as may be incidental thereto." (Page 114 Minneapolis Proceedings.) The action in creating this judiciary came from the instructions given to the law committee at the Louisville session the year before.

Q. Those instructions you say were given by the national council? A. Yes sir.

Q. Then, if I understand you, the Minneapolis session attempted to abolish this right of appeal to the national council and abrogate the provisions in reference to it by establishing a national judiciary? A. That was the effect of it.

Q. What constituted this national judiciary? A. There are three of them. One chief supreme judge and two supreme judges.

Q. Who were they? A. Eddy, Wilkin and Barry.

Q. Who appointed them? A. The national councillor.

Q. Who was the national councillor? A. Charles Reimer of Maryland.

Q. As I understand, there is no provision in the new laws which gives national, State or subordinate councils or members of the order any voice or vote in the selection of the judges of the national judiciary? A. That is correct. It was always the same way with the appeal committee.

173 Q. An appeal would lie from the decision of the appeal committee to the national council, would it not? A. Yes.

Q. But, an appeal does not lie, as I understand it, from this national judiciary to the national council? A. No sir.

Q. Was this new creation, the national judiciary, submitted to the members of the order for a vote? A. No sir.

Q. Can you fix the time that this chief supreme judge and the supreme judges were appointed? A. They were appointed just before the adjournment of the court, according to the minutes.

Q. That was the 23rd of June then? A. Yes sir.

Q. H. H. Eddy was appointed chief supreme judge? A. Yes sir.

Q. He was chairman of the law committee? A. Yes sir.

Q. Was any obligation administered to those so-called supreme judges? A. Yes sir.

Q. Who administered that? A. My recollection is that the national councillor administered the obligation to the chief supreme judge, and he administered it to the other two.

Q. Was it subscribed to by them? A. No, I don't think they signed anything.

Q. If any written pledge had been subscribed to by them, you would have received it yourself, as national secretary, would you not? A. I think so. I would know something about it.

Q. Are you able to say whether any was subscribed? A. None to my knowledge.

174 Q. Can you tell us when the board of officers of the national council held its first meeting after the Minneapolis session? A. Well, there was a session at Minneapolis,—this book says June 24, and at Atlantic City on July 1st.

Q. June 24th then was the first meeting of this board of officers after the Minneapolis session. Who constituted that board of officers? A. The board of officers is the national councillor, the national vice councillor and the junior past national councillor.

Q. Are you the secretary of that board of officers? A. Under the new laws, I am.

Q. Turn to the meeting of the board Sept. 20, 1899. A. (Reading:) "At a meeting held in Scranton, the resignation of Brother A. D. Wilkin as a member of the national judiciary was read and accepted. Brother A. D. Wilkin was retained as counsel in the matter of 'The

National Council vs. The State Council of Pennsylvania, and District of Columbia with authority to engage W. U. Hensel of Lancaster, Pa."

Q. Was Mr. Wilkin present at that meeting? A. Yes sir.

Q. What were these cases against the State council of Pennsylvania and the District of Columbia? A. Well, it was for refusal to pay the *per capita* tax.

Q. National Councillor Reimer filed a petition before the national judiciary against these State councils, did he not? A. Yes sir.

175 Q. Do you know how A. D. Wilkin happened to resign from the national judiciary? A. I have got my opinion. I don't know it.

Q. After he resigned, he acted as the attorney of the national council and prosecuted the charges of the national councillor against these State councils before the national judiciary? A. I know he did with Pennsylvania. From general report I believe he did with the District of Columbia.

Q. The national councillor had declared the charters of these State councils suspended for the reason that they had refused to pay the *per capita* tax of 15 cents a member levied at the Minneapolis session? A. Yes.

* * * * *

Q. I now hand you this paper and ask you if this is your signature? A. Yes sir; I believe so.

Q. I will ask you to read it. A. "Philadelphia, Pa., September 14th, 1899. To whom it may concern.—Your attention is called to the following:

"As a result of the action of the State council of the District of Columbia, adopting certain recommendations of its secretary, Wm. L. Boyden, at its session held in the city of Washington on the 14th day of August, 1899, I have preferred charges of insubordination, rebellion, etc., against the said State council of the District, before the national judiciary, and pending the trial of said charges, I hereby declare the charter of the said State council suspended."

176 "You will give notice of the above action to the said State council, and to all subordinate councils in the District of Columbia, and after having done so, cease to hold further communication with the said State council. By order of the national councillor. Attest Edw. S. Deemer, N. sec'y. (Seal.)"

Q. Did you send that notice to William L. Boyden, secretary of the State council of the District of Columbia? A. I suppose I did.

Q. Do you know when you sent it? A. It is under date of September 14, 1899.

Q. You complied with that notice and sent that communication to the State council of the District of Columbia? A. Yes sir.

Q. And held no further communication with the State council of the District of Columbia afterward, did you? A. Not officially, I guess.

Q. That is the reason you didn't send any blanks or credentials to the State council of the District of Columbia? A. That is correct.

Q. Either for reports to the session at Philadelphia or for the session at Buffalo? A. Yes sir.

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Q. The only thing that the State council of the District of Columbia had done, and the only thing charged against it by the national councillor was the adoption by it of certain recommendation by its secretary at its session of August 13, 1899, which set forth certain grievances on account of changes in the objects and laws which the Minneapolis session attempted to adopt, and the adoption of a resolution for a special session of the national council to right
177 these grievances, and refusing to pay the *per capita* tax until a special session should be called and these grievances righted.

Is that not so? A. That was the beginning of it.

Q. Didn't the secretary, William L. Boyden, send you a copy of the action of the State council of the District of Columbia referred to, and request you to present it to the national council? A. I can't be positive about that. I remember seeing the resolutions, but whether I was notified by the secretary, I am not positive; but in addition to the action of the State council of the District of Columbia, approving this recommendation, immediately afterward the secretary of the State council of the District of Columbia in conjunction with three or four others——

Mr. BIGELOW: We object to that. That is not responsive.

The WITNESS: You asked me whether that wasn't the causes of the trouble, why the charges were preferred.

Mr. BIGELOW: I object to the answer of the witness as not being responsive to any question.

The WITNESS: I was about to say that immediately after the session of the State council of the District of Columbia, a communication or circular signed by William L. Boyden and four or five others was sent broadcast through the organization which done more damage than the action of the State council of the District of Columbia.

Q. Since you have seen fit to ignore my question and bring in this other matter, I will ask you if this is a copy of the circular to which you referred? A. That is the circular.

Q. Can you tell us by whom it is signed or purports to have been signed? A. William A. Pike of Pennsylvania, William H.
178 Myers of New Jersey, Fred E. Parker of New York, E. T. Keeton of Virginia, and W. L. Boyden of the District of Columbia, committee.

Mr. BIGELOW: We offer that paper in evidence as tending to explain the answer of the witness.

The examiner marked the same Defendants' Exhibit, Nov. 12, 1901, No. —.

The WITNESS: I prepared an answer to that. It might as well go before the judge if this is going in.

Mr. WILLIAMS: The production of this circular in evidence is objected to on the ground that it is immaterial. In addition to which the witness has testified that he made an answer to the same, which cannot be now produced and filed in the case, but which should be, if this paper is to be put in evidence.

Mr. WILLIAMS: Where is the answer you say you prepared?

A. I have got lots of them at home in my office; they were printed.

Mr. WILLIAMS: To whom did you send it?

A. They were sent in bunches to different places.

Mr. WILLIAMS: Were they sent to these persons?

A. I don't remember; I suppose some of these people have them.

Mr. WILLIAMS: Can you produce a copy of it?

A. Yes, sir.

Mr. WILLIAMS: I give notice that I shall ask the witness to produce and file with this paper the answer which he says he prepared and will furnish a copy of the same to counsel, although both paper and answer are objected to, the paper referred to being in evidence simply for the purpose of explaining the witness' answer.

Mr. BIGELOW: Until the answer to the circular prepared by the witness shall be submitted to the counsel, we reserve all right of objection to the same. As to the objection of counsel for the complainant to the introduction of the circular identified by the witness in evidence in this case, counsel for the defendants call attention to the fact that the witness volunteered the statement concerning the same and sought to connect the defendant State Council with the issue of the same to its prejudice.

* * * * *

179 Q. I will ask you to look at this paper and state if you ever received such a communication from William L. Boyden, secretary of the State council of the District of Columbia? A. I probably did. I don't deny it, but I don't remember it particularly.

Q. Don't you remember receiving a copy of the resolutions he presented to the State council of the District of Columbia, together with the action taken thereon? A. I remember seeing them.

Q. Can you fix the date you received it? A. I can fix it as about August, 1899. That is when the State council of the District of Columbia met.

Q. Didn't he write you a communication requesting you to present the same to the national council for its consideration and action? A. I have a sort of indistinct recollection that he did.

Q. If I understand you correctly, these charges were not preferred

against the State council of the District of Columbia merely because it refused to pay its *per capita* tax of 15 cents per member, levied at Minneapolis, but also because of this circular signed by these members; is that correct? A. That was simply an expression of my opinion.

Q. We don't want your opinion. A. Well, what else can I do. I didn't prefer the charges. The charges as preferred by the national councillor gives the specifications. He tells you why he done it,

Q. The tax that it was claimed that the District of Columbia State council refused to pay was levied at Minneapolis, was it not?

A. Yes, sir.

180 Q. And that was 15 cents per member? A. Yes sir.

Q. Will you tell us when that tax was payable? A. Payable the 15th of October and the 15th of April.

Q. Half of it was payable October 15, 1899, and the other half was payable April 15, 1900? A. Yes.

Q. You have stated that the charter of the State council of the District of Columbia was suspended on the 14th of September, 1899, more than a month before the first half of this tax was payable; is that correct? A. I have stated that the acts of the national councillor ought to speak for themselves. I did not pass it.

Q. Now, is there any provision, either in the laws in force prior to the Minneapolis session, or in those attempted to be adopted at that session, which authorizes the national councillor to suspend the charter of a State council for refusing or failing to pay the *per capita* tax before it is payable? A. I would say no, but there might be certain acts,—I mean the action of the body in Washington, not so much in refusing to pay the tax, but the spirit which prompted it, which would constitute rebellion for which the national council would suspend the charter; because State councils have failed to pay the tax to the order, and haven't had their charters suspended, because they hadn't the money.

Q. Now, can you find in the laws either in force prior to Minneapolis, or the new laws attempted to be substituted therefor,
181 any provision which gives the national councillor a right to suspend a charter of a State council for any cause? A. I don't think that is a question that ought to be asked me. I am not a lawyer.

Q. Is there any such law? A. I cannot answer that question. Certainly the national councillor found some warrant for his action.

Q. What warrant did he find? A. I say he found some.

Q. You merely assume that from the fact that he suspended the charter? A. I don't know that I should like to undertake to say what his reason was.

Q. But I would like to know if you can tell me, because I haven't been able to find any such provision in either the old or the new laws that gives the national councillor power to suspend the charter of a State council for any cause. Can you find any such provision?

A. I can't just now. I know there are laws bearing on the subject one way or the other.

Q. Now the only law of the order claimed to have been violated by the State council of the District of Columbia was national laws division 1, chapter 21, section 1, Minneapolis proceedings, appendix page 40, which I will ask you to read. A. (Reading:) "The revenue of the national council shall be derived from the following enumerated sources.

1. From a *per capita* tax upon every member of the order, which tax shall be in amount as enacted from year to year by the national council in regular meetings; shall be paid by the national secretary, by the State Council secretaries and the recording secretaries
182 of the councils under the jurisdiction of the national council, and shall be transmitted by registered mail or express, one-half thereof on the 15th day of April, and one-half on the 15th day of October of each year, the said tax to be levied upon the total membership of the order, as reported in the annual report of the State Council secretaries and recording secretaries of councils under the jurisdiction of the national council, preceding the said meeting of the national council."

Q. Was there any penalty provided for a violation of that provision? A. Yes, there is a penalty here: "For failure to comply with the above, a State council after being notified thereof by the national secretary, shall pay a fine of \$5.00 and shall be denied representation in the national council until the said report as herein required shall be filed with the national secretary and the fine herein provided shall be paid. It shall be unlawful for the national council to donate or remit or reimburse said State council for the fine imposed herein." That is from national laws, division 4, chapter 4, page 55, appendix to the Minneapolis proceedings.

Q. That provided in substance that a State council shall report to the national council on blank reports provided by the national secretary on the 15th of April and 15th of October of each year, giving the number of the members, &c., accompanied with the one-half of the year's *per capita* tax, and for failure to comply with these provisions, and report these matters, and pay the one-half of the *per capita* tax, a fine of \$5.00 would be thereby incurred, and the
183 State council denied representation in the national council until such reports should be filed and the fine paid; is that correct? A. That is correct.

Q. But that does not bear upon the provision of the national laws, division 1, section 1, claimed to have been violated by the State council of the District of Columbia, does it? A. No, but I would like to call your attention to the fact that this section which has just been read says that for failure to comply with the above, &c., I understand that failure may mean neglect. It may be an innocent oversight; it may be because the council hasn't got the money, but in this case it was a refusal; it wasn't a failure. A refusal is a failure, but a failure is not always a refusal.

Q. And by reason of this proclamation of the national councillor suspending the charter of the State council of the District of Columbia, and because you were thereby directed to cease to hold further communication with the State council, you never sent in any blank reports or credentials? A. I don't think I did. I am pretty sure I didn't.

Q. Didn't you refuse to send the same? A. I don't remember whether I did.

184 Q. I show you this letter and ask you if you can recognize it as being written by yourself? A. Yes, I recognize that.

Q. I ask you to read it. A. (Reading :) "Philadelphia, Pa., June 6, 1900. To William L. Boyden, 433 3rd St., N. W., Washington, D. C. Dear Sir and Brother: Yours 5th is at hand. I admit that I have sent blanks and notice of the session to every State council but yours. The judiciary have revoked your charter and it is not my place to construe the decision of the court as it affects you. That should be the act of the judiciary and national councillor. Personally I should be pleased to meet you all in session at Philadelphia on the 19th. Fraternally yours, Edw. S. Deemer, N. sec'y."

Q. So then, although requested to furnish credentials nevertheless you declined to do it? A. Yes.

Q. Is it not a fact that from the time the national councillor declared the charter of the defendant State Council suspended, that the national council officers treated it as though it had been expelled and was no longer a part of the order? A. Yes, that is the fact.

Q. Did you send each subordinate council of the District of Columbia this notice: "I am directed by the national councillor to notify you that he has suspended the charter of your State council for insubordination and rebellion." A. I guess I did.

Q. You proceeded to collect the *per capita* tax from all the subordinate councils in the District of Columbia soon after its
185 charter was suspended, didn't you? A. Yes sir.

Q. What rate did you charge them? A. I don't remember now.

Q. It was the same rate as charged councils in States where there was no State council, was it not? A. Yes.

Q. You collected taxes from four of them, didn't you, and placed them under the immediate jurisdiction of the national council? A. I think so.

Q. Those were Mt. Vernon Council, No. 10, Anacostia No. 10, America Council No. 4; and Reno Council No. 46? A. Those sound familiar. I think those were the ones.

Q. The national councillor also changed the password of the order soon after the suspension of the charter of the State council? A. Yes sir.

Q. He cut the State council off from communication with the order? A. That would be the result of it.

Q. Is it not a fact that the board of officers of the national council tried to get these four councils I have mentioned and others to form

a new State council? A. You put that as my individual act or as the act of the board? I will answer that such a plan was attempted.

Q. I show you a communication and ask you if that is your signature? A. Yes sir.

Q. Kindly read it. A. (Reading :) "Philadelphia, Pa., November 2, 1899. James A. Hewes, 523 Fifth St., N. W., Washington, D. C. Dear Sir and Brother: Yours of the 31st at hand. I acknowledge the receipt of check for \$15.44 and enclose you pass pending proper instructions from the national council. We will also send you a few blank reports and blanks for charter. Hoping your minority may soon become a majority, I am, fraternally yours, Edw. S. Deemer, national secretary."

Q. James A. Hewes was secretary of the Mt. Vernon council? A. I can't tell you which one he was secretary of.

Q. He was the secretary of one of these four councils? A. I suppose so.

* * * * *

187 Q. I will ask you for what purpose the order acquired title to the National Orphans' Home property at Tiffin, Ohio, to which you referred in your direct examination? A. For the care of orphans of deceased members.

Q. Members of the entire order? A. Yes sir.

Q. Throughout the United States? A. Yes, sir.

Q. The report of the Philadelphia session, page 128, gives the report of the trustees of the Orphans' home, which includes an inventory of the property, including 176 acres of land of the orphans' home, and states it to be worth about \$65,700. Would you say that this is a fair estimate of its value? A. I am no judge of that. I have understood that Young America council paid \$27,500 for the farm.

Mr. WILLIAMS: Question and answer objected to on the ground that the value of the orphans' home property is not involved in this suit.

Q. You have been there? A. Yes sir; I have been at Tiffin.

Q. Well, what would you say, having been there; is this a fair valuation or not?

Mr. WILLIAMS: That is objected to on the ground that the witness has shown that he has no competent knowledge to enable him to testify.

A. Well, I cannot set myself up as a judge of the fair value of the property, but it is certainly a beautiful place.

Q. How many orphans were there in 1899? A. 84.

Q. What was the amount of the donations received by the orphans' home in the ensuing year after the Minneapolis session?

188 Mr. WILLIAMS: A general objection is here entered by consent to all questions as to the orphans' home as not material or in any way involved in this case.

Mr. BIGELOW: The object of this cross examination is to show that the tax levied to support the orphans' home is excessive and unreasonable.

A. The donations appear to have been \$8,248.22.

Q. In addition to that, grain, produce, live stock and stone were produced on the farm and also sold and applied for the support of the home? A. Yes, and used.

Q. A tax of 10 cents per member levied for the support of the orphans' home on 183,000 members would yield \$18,300 income? A. Yes sir.

Q. The tax of ten cents levied at the Louisville meeting in 1898 for the orphans' home was to be used for erecting buildings to a large extent, was it not? A. My understanding is that two buildings have been erected out there made necessary by the demands for admittance to the home, and the home thereby got in debt, and a certain portion was appropriated for that purpose. At the Philadelphia session, I think the orphans' home committee reported that the home was \$18,000 in debt.

Mr. BIGELOW: I object to the latter part of the answer as not being responsive to my question and as immaterial, and as giving a part of the proceedings of the Philadelphia session in which the State council of the District of Columbia took no part and to which its representatives were denied ad—

Q. I understood you to testify in your direct examination that this tax for the orphans' home as well as the other taxes for general purposes, was not to accumulate a fund, but to pay current
189 expenses; is that correct? A. Yes sir.

Q. I will ask you if the orphans' home was indebted at the time of the Minneapolis meeting? A. I cannot answer that question.

Q. You don't know that it was. A. I do not, and I do not know that it was not.

Q. Does not the report of the finance committee presented at the Minneapolis session, found on page 199 of those proceedings show that the *per capita* tax received for that year was \$17,851, and that of that amount there was paid to the orphans' home \$12,941.95, leaving a balance due the home of \$4,909.05. Is that correct? A. Yes sir.

Q. You testified at the last session that the other estimated expenses were \$28,000. I will ask you to refer to your records and minutes and tell how much was received by the national council for supplies from June, 1899, to June, 1900. A. \$7,441.51. That is what the report of the finance committee shows. My report is not in detail.

Q. I will ask you to refer to the report of the finance committee, page 109, Minneapolis session, and state what the balance on hand was at that time? A. \$19,953.34.

Q. And the tax of 15 cents per member on 183,000, the approximate number of orders the order had at that time, would yield \$27,450. The three sums taken together make about \$54,000, which would be nearly twice as much as the estimated expenses of \$28,000. Now, my question is, was not that sum of \$28,000 the estimated expenses for general purposes as large as those in the previous year?

190 Mr. WILLIAMS: I renew the offer which I have made several times during the taking of this testimony to stipulate as to any fact contained in any printed record and to any fact relating to the expenditure for the orphans' home, subject simply to an objection to the materiality or relevancy of the same, and I give notice that I will ask the court to decree that the entire cost of the interrogation of this witness shall be paid by the defendant, as wholly unnecessary.

A. I don't know without referring to the matter.

Q. Can you refer to the matter and determine it in a few minutes? A. No, it would take quite a number of minutes to find that out.

Q. I understood you to say that you were the financial secretary as well as the corresponding secretary of the national council? A. No, sir; I did not say anything of the kind, because there is no financial secretary. There is only one secretary, the national secretary.

Q. Do you receive all the money that comes into the general fund? A. Yes, sir.

Q. Then do you not know what the expenses of the national council are? A. I do not, without referring to the records.

Q. Can you tell us whether or not \$28,000 is as large as the expenses were at the session prior to 1899? A. No sir; I can't tell that.

Q. Was this tax of 15 cents for general purposes made so heavy so that it would raise enough not only to defray the general expenses, but also to provide the necessary amount to be advanced for the insurance branch? A. That I can't answer.

As I told you before, I knew nothing about any proposed advance to the beneficiary degree until the paper came into my hands.

192 Q. Is it not a fact that even since this suit was filed the national council, or the national council officers have demanded payment of all taxes levied by the national council and threatened to take the charter and the property of the subordinate councils of the District of Columbia away if they refused to pay the tax so levied? A. This communication which you have in your hand is dated office of the national councillor, December 5th, 1900. The national councillor in this circular of December 5th, 1900, says that "Failure to pay this tax will render the charter of the delinquent subordinate council forfeitable, and the property and funds in its hands and possession revertable to the national council."

Q. How much tax did that communication demand? A. 45 cts.

Q. Per member? A. Yes.

Mr. WILLIAMS: That is objected to on the ground that this is a suit between the national council and a State council, and not a subordinate council.

Q. The councils in the District of Columbia failed and refused to pay that 45 cents so demanded? A. I didn't know whether they failed or refused. They didn't pay it.

Q. Don't you know that following that demand up, another demand has been made through the deputy national councillor so-called, H. F. Steele, demanding the charter, funds and property of the subordinate councils of the District of Columbia?

Mr. WILLIAMS: Same objection.

A. No, I don't know that.

Q. Do you know that such action was directed to be taken by the national councillor? A. No, I know that he was appointed deputy national councillor here in the District of Columbia, but just
193 what duties or powers he was given, I don't know. It didn't come through my office.

Q. I don't believe you stated what your business is? A. I said national secretary. I am secretary of the national council, and secretary of the State council of Pennsylvania.

Q. Is that the only business you are engaged in? A. Yes, you might say. I am secretary of a building association.

Q. What pay do you receive per annum from the national council? A. \$1,000.

Q. How much do you receive from the State council? A. I give \$200 out of my salary as national secretary to my clerk. My salary as secretary of the State council of Pennsylvania is \$1,500 by law. Last year I donated \$300 out of it.

Redirect examination:

By Mr. WILLIAMS: It is agreed that the production of the original minutes of 1899 and 1900 is waived, the witness having stated that he has no minutes of the proceedings in the committee of the whole for the session of 1899, and having produced the portions of the proceedings of 1900 which were called for.

Mr. WILLIAMS: I offer in evidence for the purpose of completing the record certified copy of the charter of the National Council of the Junior Order of United American Mechanics.

(The examiner marked the said charter Complainant's Exhibit Nov. 12, 1901, No. 2.)

* * * * *

194 Q. I understood you to say in your cross examination that only a portion of the amount appropriated for the insurance branch,—something like \$2,500,—was actually advanced? A. Yes, sir.

Q. Was any part of this sum so advanced, advanced from funds on hand at the time the appropriation was made at Minneapolis, or was it raised by the *per capita* tax of 15 cents per member then levied? A. Well, according to the report, we had \$19,000 in the treasury at the time, and after \$5,000 of it was gone to the orphans' home, that leaves something like \$14,000.00 in the treasury; we could well afford to loan the beneficiary degree \$5,000.

Q. Referring to the testimony you have given on cross examination as to the vote on the adoption of the laws at Minneapolis, that is the vote on the adoption of the report of the committee of the whole. Do you remember whether or not there were any negative votes?

Mr. BIGELOW: Objected to as that was fully gone into on the examination in chief.

A. My recollection is that when the committee of the whole reported to the national council, a motion was made that the report of the committee of the whole be accepted and the laws adopted as a whole, and that there was no opposing votes.

Mr. BIGELOW: The answer of the witness is objected to as being an incompetent method of proving the vote or action on the adoption of the laws.

Q. As a matter of fact did any member of The State Council
195 of the District of Columbia, the defendant in this suit, make an application either in person or by letter to be admitted as a delegate at the Philadelphia session in 1900?

Mr. BIGELOW: The question is objected to as having been gone into fully in the examination in chief, and further for the reason that the witness has testified that he refused to send any credentials for admission to any representative of the State council to the session held at Philadelphia and on application made, declined to do so.

A. No, sir.

Q. These credentials which you declined to send were mere blanks, were they not, to be filled up and signed by the proper officials?

Mr. BIGELOW: Objected to as being leading and suggestive and contrary to the testimony of the witness.

A. They are sent out for my convenience for the purpose of making up the roll.

Q. Have you prepared any data from the records of the various proceedings of the national council, from 1895 to 1901, showing in concise form the attendance at the various sessions referred to; and if you have produce it. A. I have. I have here a statement for the last seven years.

Mr. WILLIAMS: To avoid reference to numerous publications I will offer the statement in evidence.

(The examiner marked the said paper "Complainant's Exhibit No. 3, November 12, 1901.)

Mr. BIGELOW: The paper offered is objected to for the reason that the original reports are the best evidence.

196 Q. Referring to that vote or action in the committee of the whole on the laws at the Minneapolis session when you say in cross examination that certain amendments were suggested in the committee of the whole and there was no vote on them, but that they were adopted?

Mr. WILLIAMS: In view of the fact that the witness desires to leave the city as soon as possible, complainant's solicitors agree that counsel for the defendant may make any objection he sees fit, to any of the testimony about to be given, and if counsel desires, that the same may be afterward inserted in the record.

A. In the committee of the whole my recollection is that past national councillor presided, and as I stated before, Brother Eddy stood on the floor in front of him, and when some of these suggestions were made, Brother Eddy would say, "Well, I don't know but that is an improvement; I guess it would be better that way," and he would make a note of it; and sometimes the chairman of the committee of the whole would say "Well, if there is no objection, it will be adopted as suggested," and there was no objection.

Q. Then as I understand you, ultimately the chairman, adopting certain suggestions of this character, made a report to the committee, including also certain changes which had been adopted by the meeting of the committee which the members were invited to attend, and that this report as given by him was the report of the committee on laws, which was subsequently adopted by the national council. A. Yes sir.

Q. And I understand that the basis of this report was the printed law committee's report? A. Yes sir.

Q. Subject to the alterations or additions already referred to? A. Yes sir.

197 Q. Referring to your testimony on cross examination about the cost of sending representatives to the national council being assumed by the national council under these new laws, I will ask; who bore the cost of sending representatives to the national council before the adoption of this law, and how was that done? A. Well, largely, the State councils. I suppose in some cases the members bore their own expenses.

Q. When the State councils bore the expenses, how was that raised? A. By the *per capita* tax.

Q. Upon the members of the order? A. Upon the members of the order belonging to the State council.

Q. I will ask you whether you can refer us to any record, or state anything from your own knowledge, explaining the reasons for the national council adopting the rules or laws relating to the insurance

branch or beneficiary degree? A. During the year 1898 while Joseph Powell was national councillor his report shows that he was considerably annoyed by efforts to start insurance organizations in other parts of the country. This was more notorious in the city of Washington than it was anywhere else. I have here a pamphlet that was issued during that year called the "Protection Decree." It is headed the national council, and it says that only members of the Junior Order of United American Mechanics are eligible to membership; and at the bottom it says "Office of the national council, Washington, D. C." and here is a table of rates. That was sent out giving the impression that it was coming from the national council. This organization had the same names of

198 officers as the national council had. I wrote quite a number of letters to different parts of the country to the effect that the national secretary mentioned in that document was not me. There was also another scheme connected with a life insurance company, I think in Hartford, Connecticut, with which a man by the name of Alexander was connected, as he also was with this other scheme, and the national councillor was compelled to issue two circulars denouncing them and stating that they had no connection with our order whatever. I refer you to this report made at the Louisville session in May, 1898, in which he alludes to both of these schemes, and says he has come to the conclusion that it is about time for the national council to take control of all of these organizations and not advertise the payment of certain benefits, and immediately upon the organization of a council, tell them that they must get these benefits from some outside organization. Of course this referred to the funeral benefits associations as well as to this other matter; and this recommendation of the national councillor was approved of and that was the occasion of the report of the committee on beneficiary degree at Minneapolis.

Q. The committee you refer to was appointed in 1898 at Louisville? A. Yes sir.

Mr. WILLIAMS: I offer in evidence the report of the national councillor referred to in the minutes of the proceedings of 1898 at pages —.

(Marked by examiner Complainant's Exhibit No. 4.)

Recross examination.

By Mr. BIGELOW:

Q. I understand you to say that this insurance scheme attempted to be launched on the public by one Fred W. Alexander had 199 no connection whatever with the order? A. No.

Q. Fred W. Alexander was of Vermont, was he not? A. Yes sir.

Q. Was he not a member of the national council? A. Yes.

Q. By this change in the representation and the paying of the expenses of fare and *per diem* of representatives of the State councils to the national council the West was especially favored, was it not? A. Well, it is only a matter of opinion, and I will answer, yes. It was a matter that had been suggested at different times in the national council. At one time a proposition to pay mileage was made by Keeton of Virginia.

Q. It had always been defeated? A. Yes.

Q. Until the Minneapolis session? A. Yes.

Q. The Junior Order of United American Mechanics, as an order, has always held itself out to be a patriotic and fraternal order rather than of an insurance character, is not that correct? A. Yes, but yet it is a fact that the funeral benefit association is the biggest lever in building it up, showing that it was not the principles, but the money—the benefits.

Q. But that funeral benefit association is entirely outside the control, management and influence of the national or State councils? A. Yes.

Q. And it was with the object of keeping the national and State councils out of the insurance business that these funeral benefit associations have been organized; is that not so? A. The
200 original benefit association was created simply because the membership wouldn't have it.

Q. Wouldn't have what? A. The insurance.

Q. Wouldn't have an insurance conducted under the auspices of the national council? A. They voted against this same plan of insurance.

Q. When it was proposed for the national council to conduct it? A. Yes.

Q. But when it was proposed that the funeral benefit association of the United States should conduct it outside of the order, then it was agreed to? A. I don't admit that. The funeral benefit association was created on the first of January, 1882, by those who favored it and by those who were in favor of its adoption by the national council. That was the beginning of it; then it grew in favor until it got where it is now, but the great objection to funeral benefit associations has been as you say, that it was a power outside of the organization. Neither the national nor the State councils had any control over it, and the funeral benefit association of the United States had plainly told the State council of Pennsylvania that it was none of its business. It was right under the law but it was a thing that should not be so.

Q. And it was the desire of the majority of the members of the order to have this funeral benefit association conducted outside of the order rather than have it conducted by the State or national council, is that not so? A. No sir, I claim that it was started by these people who were in favor of its being conducted by the national council. The people who were opposed to it were opposed to it anyhow.

201 Q. And those who were opposed to it have become in favor of it? A. Yes, sir.

Q. And they are now in favor of it outside the order rather than the so-called beneficiary degree inside the order? A. Well, I will answer that by saying that the national council in Buffalo created a funeral benefit fund and already it has got in the neighborhood of 10,000—as many members as the funeral benefit association had at the end of five years of its existence. It was not so much the control of the thing as it was the thing itself.

Q. So that, if I understand you, besides the insurance branch which the national council attempted to create at Minneapolis at the session in Buffalo in 1901, it attempted to create a funeral benefit association? A. They didn't attempt. They have done it.

Q. You say it has about 10,000. A. Approximately 10,000 in 60 days from the session.

Q. Then it appears from that that the funeral benefit association is even more in favor than the insurance branch? A. Yes.

Q. Has this funeral benefit association scheme adopted at Buffalo ever been submitted to the members of the order for a vote? A. No sir; it is not compulsory.

Q. Not under the new laws? A. No; the joining of it is not compulsory.

Q. Does that insure councils as a whole? A. Yes.

Q. Was a special tax levied for the purpose of creating that? A. No sir.

202 Mr. WILLIAMS: The foregoing is objected to as not proper recross examination.

EDW. S. DEEMER.

Subscribed before me this 22nd. day of March, 1902.

JOSEPH HARPER, *Examiner*.

Mr. WILLIAMS: It is agreed at the request of defendants' counsel that a copy of the deed to the orphans' home property produced by this witness shall be made and filed in evidence, the same as though it were the original.

Thereupon all parties adjourned to meet again on notice.

JOSEPH HARPER, *Examiner*.

Mr. WILLIAMS: It is agreed at the request of defendants' counsel that a copy of the deed to the orphans' home property produced by this witness shall be made and filed in evidence the same as though it were the original.

Thereupon the parties adjourned to meet again on notice.

JOSEPH HARPER, *Examiner*.

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WASHINGTON, D. C.,
FRIDAY, *May* 2, 1902—3.30 p. m.

The parties met at the same place, pursuant to adjournment.

Present on behalf of the complainant: Messrs. Williams & A. W. Shunk.

Present for defendant: Mr. C. M. Bigelow.

Whereupon CAVOUR O. BOHRER, produced as a witness for the complainant, having been duly sworn, was examined

By Mr. WILLIAMS:

Q. State your occupation and residence? A. Occupation grocer; residence 113 C St. S. E., city.

Q. Are you a member of the complainant council, that is, the national council? A. I am.

Q. How long have you been such? A. I became a member in 1895.

Q. How long have you been a member of the Junior Order of United American Mechanics? A. That is when I went in.

Q. My first question was, how long you had been a member of the national council? A. Do I understand by that, admission into the national council?

Q. Yes. A. It was in June 1898.

Q. Then you were a member in the month of June, 1899, were you? A. Yes, sir.

204 Q. Were you at the same time a member of the State council of the District of Columbia? A. I was.

Q. Did you hold any office there? A. I did.

Q. What office? A. National representative.

Q. When were you elected to that office? A. In August 1897.

Q. For how long a term? A. For an unexpired term of two years.

Q. Your term expired then in August, 1899? A. Yes, sir.

Q. Did you attend the session of the national council in Minneapolis in June, 1899? A. I did.

Q. In what capacity were you present there? A. As national representative.

Q. Was there any other representative of the District of Columbia State council there besides yourself? A. No, sir.

Q. At whose expense did you go? A. At the expense of the State council partly, and largely at my own.

Q. How much did it contribute toward your expenses? A. \$30.

Q. Did you attend all the sessions of the Minneapolis convention? A. I did.

205 Q. How long did the session last? A. Three and one-half days.

Q. What days were they? A. As nearly as I can remember, June 20th, 21st, 22d, and the morning of the 23d.

Q. Did you receive any instructions either prior to or while at the

Minneapolis convention from the District of Columbia State council?

A. I did not.

Q. You mean that you went uninstructed? A. I went uninstructed.

Q. Did you receive a copy of a report, designated "Report of law committee" before you went to Minneapolis. I show you the paper to which I refer, which is marked Complainant's Exhibit Y? A. I cannot say that it was in that form that I received it. I received a combination report.

Q. You did receive a report then? A. Yes.

Q. What did you do with it? A. I carried it with me to Minneapolis.

Mr. BIGELOW: All testimony on this subject is objected to unless the report is produced.

Q. What did you do with it afterward? A. The one I carried with me I left out there.

Q. I show you another paper which has annexed to it a paper marked "Report of law committee," and ask you whether that is the paper which you received? A. Yes, sir; that is the paper I received.

Mr. BIGELOW: Do you mean to say that is the paper you left at Minneapolis?

A. That is similar. What I mean to say is there is the same matter in it.

206 Mr. WILLIAMS: I offer in evidence the report which has been shown the witness, in connection with his testimony.

Mr. BIGELOW: Before the paper is offered in evidence, I desire to cross examine the witness in relation to it.

Cross-examination.

By Mr. BIGELOW:

Q. You say the combination report you received prior to the Minneapolis session, you left out there? A. Yes.

Q. Have you read the report which has just been handed to you by Mr. Williams? A. I have.

Q. When? A. Before I went to Minneapolis.

Q. I am asking you now about this particular report that Mr. Williams has just handed you. Have you ever read that? A. I have read the contents of it.

Q. The question is whether you have ever read this particular report which Mr. Williams has just handed you? A. To the best of my knowledge and belief, to-day is the first time I ever saw that paper.

Q. How are you able to state then that this contains the same report that you received prior to the Minneapolis session? A. I received the report.

Q. But you left that at Minneapolis? A. But I brought one home with me.

Q. This is the one you brought home with you? A. It is not.

207 Mr. BIGELOW: The introduction of this report in evidence is objected to on the ground that it has not been shown to be the same report as the one received by the witness before going to Minneapolis.

Mr. WILLIAMS: What the complainant offers to prove by the introduction of this document, which is in a book made up of several pamphlets stitched together, is that one of said pamphlets having the title, "Report of law committee" and covering some 78 printed pages, is identical with Exhibit Y already filed in evidence with the stipulation.

Said document was marked by the examiner Complainant's Exhibit No. 5.

Direct examination resumed.

By Mr. WILLIAMS:

Q. When you were present at the Minneapolis session, did you or did you not find any other copies of the report that you have just mentioned in the hands of other members of the national council?

Mr. BIGELOW: Objected to as immaterial and irrelevant.

A. Yes, sir; I did.

Q. Were you present on the second day's session,—the afternoon session,—when a vote was taken on the matter of fixing the *per capita* tax? A. I was.

Q. I direct the witness' attention to page 112 of Complainant's Exhibit C, which by the stipulation is in evidence and which is a portion of the report of the second day, afternoon session, and ask the witness whether that is the vote to which he understands
208 me to refer? A. Yes, sir.

Q. Did you vote on that proposition which is there recorded as having been adopted, fixing a certain *per capita* tax, and if so, how?

Mr. BIGELOW: Objected to as being immaterial.

A. I voted in favor of it.

Q. Were you present on the day following that day at the afternoon session when the committee of the whole rose and reported a revised constitution and general laws? A. I was.

Q. I call the witness's attention to page 116 of the same report: "P. S. C. Collins of Pennsylvania moved that the "report be accepted and the laws adopted, which was agreed to." "P. S. C. Collins of Pennsylvania moved to reconsider and that the re-consideration lie upon the table, which was agreed to." Those are the votes to which I am referring. Were you present when those two votes were taken?

Mr. BIGELOW: Objected to on the ground that the record does not show that a vote was taken.

A. I was.

Q. You remember that occurrence, do you? A. I do.

Q. Was a vote taken? A. A vote was taken.

Mr. BIGELOW: Objected to as being an incompetent method of proving a vote of that character.

Mr. WILLIAMS: Counsel for the complainant state that the question was asked on account of the objection that the record does not show that a vote was taken. The record does show that the motion was agreed to, which is equivalent to the statement that there was a vote.

Q. Do you remember in what manner the vote was taken?

Mr. BIGELOW: I object to that question on the ground that it is incompetent.

A. By the raising of the left hand.

Mr. BIGELOW: The question and answer is objected to, and I shall move to strike them out on the ground that the vote referred to was manifestly illegal, null and void, for the reason that the same was taken contrary to the provisions of the constitution.

Q. Please explain that a little more fully. A. The usual way,—All those in favor will please give the regular sign, the raising of the left hand.

Q. How as to those opposed? A. The same sign.

Q. Does that refer to the vote I called your attention to, that is, the vote on the adoption of the laws and the vote to reconsider the adoption? A. Yes, sir.

Q. The record shows that you were present immediately afterward when a vote was taken upon a change in the name of the order.

Mr. BIGELOW: I object to that unless counsel specifies what part of the record he is reading from?

A. Page 117, beginning on page 116 shows an aye and nay vote on the question of the change of name from "The Junior Order of United American Mechanics" to United Americans, and the list of names given includes that of C. O. Bohrer. Do you know whether the change of name which was agreed to was ever actually adopted? A. It was not.

Q. Do you know why? A. Because another organization in Philadelphia had the same name.

Q. When was that discovered? A. It was discovered several months after that.

Mr. WILLIAMS: I offer in evidence the report of the fact that the change of name failed of adoption after being submitted to a vote of the State council as reported on pages 36-37 of the official proceed-

ings of the national council of the session held in Philadelphia, Penna. in June 1900.

Q. In the answer of the defendant counsel it is stated as follows: "It admits that the places fixed for the meeting of the national council for the years 1898 and 1899 were respectively, Louisville, Kentucky, and Minneapolis, Minnesota, and that a duly elected representative of the State council of the District of Columbia was present at the said Minneapolis session, but it denies that he in fact acted as the representative or in the interest of this defendant, or the members of the order of the District of Columbia." I will ask you whether or not you acted in the interest of the defendant,—the members of the order in the District of Columbia, as you understood their interest? A. Without instructions from the State council I acted on my own ideas of what I thought was best.

Q. The same paragraph further on says: "On the contrary, it avers that he attended the said session for and in the interest
211 of those members of the national council who combined to obtain illegal control over its affairs as above and hereinafter set forth, and that he combined and confederated with them to substitute new objects and principles and a new name and code of laws for the said order, in violation of its constitution and laws." I ask you whether that statement is true? A. It is not.

Q. Do you wish to make any further explanation? A. Nothing except that I made no confederation with any one; simply voted with the same parties that the whole delegation that represented the District of Columbia at Louisville voted with.

Q. Were you present at the prior session at Louisville? A. I was.

Q. In what capacity? A. As national representative.

Q. Of what? A. The State council of the District of Columbia.

Q. Were you present at the session in Philadelphia in 1900? A. I was.

Q. In what capacity did you attend that session? A. I went there as the representative of what was known as the loyal councils of the District of Columbia; in other words, the councils that were under the direct supervision of the national council.

Q. Did you profess at that meeting in Philadelphia to represent the several councils of the District of Columbia which adhered to the defendant council? A. I did not.

212 Q. Did you profess to represent the body called the defendant council, of which Mr. William L. Boyden is the secretary? A. I did not.

Q. Who else, if any person, from the District, was present at that convention? A. Mr. Henry F. Steele.

Q. Do you know in what capacity he was there? A. As past State councilor.

Q. Do you know of what subordinate council Mr. Steele is a member? A. Mt. Vernon.

Q. Is that one of the councils loyal to the national council? A. Yes, sir.

Q. I will ask you whether you say any of the following persons — there at the session, or attempting to be admitted to the session there: Thomas S. Surgeon, William C. Fowler, W. H. R. Martin, C. M. Bigelow, A. W. Shunk, George E. Howard, Thomas P. Moore, J. E. Crampton, William L. Boyden? A. I did not.

Q. I read this list with the exception of the name of J. E. Crampton from page 217, report of the Minneapolis session of 1899, under the general caption of "Members of national council in good standing" at that time in 1899, and under the separate heading of "District of Columbia, representatives, past State councillors, and past national representatives. I omitted the name of Henry F.

213 Steele whom you have already said was present, and I inserted the name of J. E. Crampton, whom I am informed was a past State councillor in 1900. If any of the persons to whom I had referred had been in Philadelphia making an effort to be allowed to participate in the session, or in any wise attending the session, would you have been likely to have known it? A. I think I would.

Q. Have you any doubt on that subject? A. I have not.

Q. Please explain how you came to attend the session of 1900, and how you were elected, if you were elected or chosen. A. There was a meeting called for two representatives from each of the councils—Mr. Vernon, Reno, America, Anacostia, and they voted for a representative and I was elected.

Mr. BIGELOW: I object to this line of testimony as being utterly irrelevant, immaterial, and having no bearing on the issues.

Mr. WILLIAMS: In reply to that objection counsel for the complainant state that this is made relevant by the def't's answer which states "that he professed to be a representative of the State council of the District of Columbia," and also by the cross-examination of the witness Deemer which dealt with Mr. Bohrer's connection with this session, when the whole question was gone into and an evident misunderstanding or mis-information shown on the part of the witness as to Mr. Bohrer's status.

Q. Are the subordinate councils you have just referred to the only councils which were, at that time, as you have described it, loyal to the national council? A. Yes sir; they were.

214 Q. Have you at any time since the expiration of your term as national representative in 1899 professed to be the representative of the defendant council? A. No, sir.

Q. Of what subordinate council are you a member? A. Anacostia, No. 16.

Q. Were you a member of that council in 1899 and 1900? A. I was.

Mr. WILLIAMS: I now request the witness to look among his

papers at home and ascertain whether he can find the report of the committee on law which he thinks he brought back with him from Minneapolis; and also to refresh his memory as to whether in addition to receiving the copy which he has identified, he did not also receive a duplicate of the report in evidence known as the report of the law committee to which I have referred.

The WITNESS: I can answer it now that I have a copy of this, but not with me.

Q. When did you receive the copy which you say you have at home, being a duplicate of Exhibit Y?

Mr. BIGELOW: I object to the question for the reason that the witness has already stated that he was unable to say that the report which has been marked Exhibit Y in this case is the same as that which he brought back with him from Minneapolis; and for the further reason that the witness has already stated that the report he brought back from Minneapolis was not the report he took out there. A. To the best of my knowledge and belief, it was about a month before.

Q. How did you receive it? A. Through the mail.

215 Q. If you can find the report to which I have referred, I will ask you to produce it: and I now ask you again to look at this report, Exhibit Y, and state whether that is the report to which you have referred as having been received by you about a month before the Minneapolis convention? A. (?) (See page 235, 1st question.)

Mr. BIGELOW: If the object of this examination is to tend to prove by this witness that the report of the law committee was printed prior to the Minneapolis session and sent out to members of the national council, I object to it for the reason that it is utterly immaterial; and for the further reason that the testimony sought to be elicited from this witness is not the best evidence. The examination of the witness Edward S. Deemer has pointed out the proper manner in which to introduce evidence on this subject.

Mr. WILLIAMS: In reply complainant's counsel states that upon investigation since the taking of the testimony referred to, he has ascertained that the printers of the said document are members of what is known as the "insurgent" State council of Virginia, as is also the member of their force having direct charge of the matter, and that owing to their being outside of the jurisdiction of the court, and because of their being opposed to giving testimony, it is impossible to procure their testimony in this matter.

Mr. BIGELOW: Counsel for the defendant asks counsel for the complainant if he has endeavored to obtain the evidence, and if these parties have declined to give the same.

216 Mr. WILLIAMS: We have made inquiries and found out the status of the matter as stated, and have also made direct ap-

plication for information to the person, to whom we were directed by the national secretary, as knowing about the matter. He was in the employ of the printers at the time and is now in their employ, and declines to give any information.

Mr. BIGELOW: Counsel for the defendant thinks these statements are improper to be inserted in the record. No sufficient reason has been given for not producing the best evidence of which the nature of the case is susceptible.

Mr. WILLIAMS: I offer in evidence, if not already in evidence, the report of the national secretary to the convention at Minneapolis, beginning at page 44, Minneapolis session, and continuing to page 81. I offer in evidence the whole report, but the only portion which I intend to use at the hearing is the portion headed "Our New Laws" on page 53, at the bottom of the page, and the following section at the top of page 54, headed "New Business."

Mr. BIGELOW: What is the purpose of offering this in evidence?

Q. When you stated in the early part of your testimony that you received the pamphlet which I now show you, which contains the law committee's report, were you acquainted with the fact that this pamphlet contained the report of the national councilor and the report of the national secretary? A. I was.

Q. And that the report of the national secretary, as well as
217 the report of the national councilor, was the same report as that afterward actually given at Minneapolis? A. I- was.

Mr. WILLIAMS: Now, in answer to Mr. Bigelow's question, the object of this particular offer was to show that prior to the Minneapolis session the attention of the order was called to a printed report by the national secretary; and again at the convention itself before the laws were voted upon, their attention was once more called to this fact. This is the statement in the report: "Under our laws provision is made for a thorough revision of our laws every five years, and this is the time to do it. Each and -very member has received a copy, and no matter what may be the personal opinion of the members, credit should be given to the committee that they have performed their duty faithfully and well." Under the head of new business, page 54: "If proper consideration is given to the business before us, this will be the most important session ever held by this body. In addition to the revision of the laws we shall probably consider a new ritual, an endowment plan, a woman's auxiliary, comprising both a ritual and laws for the government of the same. In their consideration, we should bring our best judgment, our honest convictions and love for the order." The object was to show advance notice of the fact that the Minneapolis session was a five year period, at which under the constitution as then in force, amendments could be made by a majority vote, and a general revision of the whole constitution and laws had, and also that there would come up for consideration at that meeting changes in the ritual and endowment plan, which means, as admitted, action on the insurance branch.

218 Mr. BIGELOW: I object to the introduction of this portion of the report of the secretary in evidence for the reason that it is merely an expression of his opinion of the legal construction of the laws of the order, as being manifestly incompetent and inadmissible, and counsel for the defendant does not agree with the construction of the constitution contended for by counsel for the complainant, but on the other hand insists that a proper construction of the constitution would under no circumstances authorize a general revision of the constitution and laws of the order in 1899, or the adoption of a new constitution and general laws, and new objects of the order, as attempted, or claimed to have been adopted, at the said session.

Mr. WILLIAMS: I offer in evidence a printed pamphlet purporting to contain the general laws and constitution of the National Council of the Junior Order of United American Mechanics, as amended and revised, down to, but not including the Minneapolis session; the object of this offer being simply to make possible a comparison with Complainant's Exhibit E which shows the same laws as they stood in 1894 and 1895, and what changes were made in the meantime.

Marked Complainant's Exhibit No. 6.

Mr. WILLIAMS: A stipulation by counsel having been filed since the last session of testimony taken, which refers to a number of records which counsel may treat as in evidence, subject to objections to their competency, etc., it is understood and agreed between counsel that without any formal offer in evidence of any of the said records, the same may be treated as in evidence, subject to the objections indicated.

219 Mr. WILLIAMS: I give notice to counsel for the defendant to produce, as he has offered to do, at the next session, the defendant's charter, being the charter granted by the complainant council, which it is alleged in the bill was revoked but has never been delivered up to the complainant; also to produce any original papers which he or his client may have relating to the proceedings between the national judiciary and the defendant council, by virtue of which it is claimed on behalf of the complainant, that the charter of the defendant council was revoked—meaning by original papers, those served upon the defendant council.

Mr. BIGELOW: Counsel for the defendants are willing to produce any documents which they, or their clients, may have relating to this matter, but they desire to have the same specified more particularly.

Thereupon the parties adjourned to meet again upon notice; at the request of defendant's counsel no day for meeting was set, the understanding being that a session for the cross examination of this witness is to be had as soon as Mr. Darlington is disengaged, without formal notice.

JOSEPH HARPER, *Examiner*.

220

WASHINGTON, D. C.,
SATURDAY, May 31, 1902—2 p. m.

The parties met at the same place.

Present for complainant: Mr. George Francis Williams.

Present for the defendant: Mr. J. J. Darlington and C. M. Bigelow.

Direct examination of CAVOUR O. BOHRER continued.

By Mr. WILLIAMS:

Q. Have you the combination report of the law committee and officers' report, which at the last session you said you brought home with you from Minneapolis? A. I have not.

Q. Did you look for it? A. Yes, sir.

Q. Do you know what became of it? A. If I remember rightly, I loaned it to some member of the order.

Q. I understood you to say at the last session that you also received a single report—that is a report of the law committee only,—not bound up together with the other reports? A. Whether I said it or not, I did.

Q. Have you that report with you? A. I have.

Q. Will you produce it? (The witness produced document.) When did you find this paper which you now produce? A. After we had the other hearing—the same evening, I think.

Q. Was there any reason why you had not found it before?

221 A. My things were all mixed up at the house; I had been moving.

Mr. WILLIAMS: I will offer this paper in evidence; and I will state that it is my belief that it is identical with Exhibit Y filed with the stipulation.

The examiner marked said pamphlet Complainant's Exhibit No. 7.

Q. When did you receive this paper which you have now produced in relation to the Minneapolis session; how long before?

Mr. DARLINGTON: I object. The witness has not said he received it before.

A. At least a month before, and I think a little over, as far as I can now recollect.

Q. Did you receive it at the same time you received the combination report? A. No; I think the combination report came a little later, as nearly as I can recollect.

Q. Referring to page 5, report of the Minneapolis session, 1899, under the caption of District of Columbia, there appears a list of persons said to be entitled to seats in the national body as delegates from the District of Columbia. I will ask you to look at that list and state whether any of those persons except yourself were present at that session? A. None of them were.

Q. Do you know of any reason why no one else from the District of Columbia attended that session? A. The only reason I could give was that they were not willing to pay the difference to make up the expenses.

222 Q. Explain what you mean by that. A. The State council allowed \$30. and the railroad fare out there alone is \$28.50, and the difference between that and the other expenses had to be made up by the delegate. The necessary expenses to return and the hotel bill probably ran it up \$20. more.

Mr. WILLIAMS: I will offer in evidence, as showing as nearly as any record does show, the actual number of persons present, and the actual number of persons—who attended the convention—the report of the roll call which preceded the vote on the election of officers as given on pages 39, 40, 41 and 42, of the proceedings of the Minneapolis convention, indicating by actual count 190, and showing for the District of Columbia the name of C. O. Bohrer.

Mr. DARLINGTON: It is admitted that C. O. Bohrer was the only person present from the District of Columbia, but we object to the introduction of this report for any other purpose, if offered in evidence.

Mr. WILLIAMS: It is also offered for the purpose of explaining what might appear to be a discrepancy in the report; that is, that this report of the committee on credentials, does not purport to give the names of the persons actually present, but simply the names of the persons from the various State councils entitled to be present, while the roll call gives the names of those actually present.

Mr. DARLINGTON: We object to the offer of the roll call for any such purpose. The fact that a person entitled to be present happened not to answer to that particular roll call is not evidence that he was not present.

223 Cross-examination.

By Mr. DARLINGTON:

Q. Why did you not tell us about this single report of the law committee when last on the stand? A. Because I stated that my things were all mixed up at the house, and I did not know I had it there.

Mr. WILLIAMS: The question is objected to on the ground that the witness did say something as to——

Mr. DARLINGTON: I object to having the witness told what he said.

Mr. WILLIAMS: It is objected to on the ground that the question assumes something not shown by the record.

Q. Why did you not tell us at the last session that you had received a single report as well as a combination report? A. I did not know it was necessary.

Q. Was that the reason? A. Yes, sir.

Q. Were you not asked distinctly whether you had received any other report? A. Yes, sir.

Q. Why did you not say, yes, if you remembered it? A. I did not recall it at the moment.

Q. So that at our last session you did not remember that you had received anything but the combination report? A. No, I cannot say that I did remember that I had received the other.

Q. Don't you know that you did not remember it? A. I will say this, Mr. Darlington.

224 Q. Will you not answer my question. A. The question, Mr. Darlington, can be qualified.

Q. Don't you know at the last session you did not remember having received it. Answer that, and then add any qualification you want to. A. I can not say I did.

Q. Were you not asked this question, page 132: "Did you receive a copy of the report designated 'Report of the law committee' before you went to Minneapolis. I show you the paper to which I refer, which, is marked 'Complainant's Exhibit Y,'" and did you not answer: "I can not say that it was in that form that I received it. I received a combination report?" A. Yes, sir.

Q. In view of that, can't you tell us whether you did remember that you had received it in any other form than Exhibit Y? A. That I can't say. I didn't expect anything of this kind ever to come up, and I didn't pay any particular attention to the matter.

Q. I am not asking you why you did not remember. I am simply asking you if it is not a matter of fact that you did not remember? A. Yes, sir.

Q. What has happened since to make you remember it? A. When they asked me to look up the other reports, I looked up the various reports of conventions I had received, and found that report.

Q. And finding that among the other, your concluded you had received it? A. Certainly.

225 Q. You further testify on the same page, 132, that the report you did receive you carried to Minneapolis and left it there. Is that the paper you now say you gave to some other member? A. No, sir.

Q. What is the paper you think you gave to some other member? A. If you will allow me to explain: I had a report out there, and left it in the meeting room of the national council in Minneapolis. I had been making some notes on it, and when I came back, somebody had picked it up. So I got another one.

Q. Which is the one you think you gave to another member? A. That is the one I brought back.

Q. That is after the convention was over? A. Yes, sir.

Q. Where did you get the one you now produce? A. I found it among my papers.

Q. Have you any other reason to suppose that you ever received that report except the fact of finding it among your papers? A. Having it in my possession.

Q. Having it in your possession, you presume you received it. Can you state how long ago? A. That I received it?

Q. Yes. A. As I remember it, in the early part of May, 1899.

Q. What enables you to remember that? (After a pause:) Haven't you just said you assumed you received it because you found it among your papers? A. No; I did not perhaps answer that in a way to make it plain. These reports were sent out, and as a
226 national representative I got one.

Q. Being sent out you assume you got one in May? A. Yes, sir.

Q. How do you know they were sent out? A. Well, when we get anything through the mail, it is self evident to my mind.

Q. How do you know you got this through the mail? A. That would put it in the plainest way.

Q. May you not have brought it back with you from Minneapolis with the other papers? A. To the best of my knowledge and belief, I saw none of these around the convention.

Q. Where do you get that knowledge and belief? A. I must state to the best of my knowledge and belief, I saw none there.

Q. We want the sources of your knowledge and belief? A. Why, I didn't see a ny. Is that the question.

Q. No; I want to know of what you base your knowledge and belief that you did not see it there? A. I hardly know how to answer that.

Q. How do you account for the fact that these papers were not seen at the Minneapolis convention, if actually used? A. The only way I can account for it is if the national secretary had them in his possession he would take the joint one, or the combination one, out there.

Q. Because it would be that much heavier and bigger?—So you infer you would not have brought this separate report if he had the combination there? A. Yes, sir.

Q. And it is on that that you base your belief? A. Yes,
227 sir.

MR. DARLINGTON: I object to the whole of this line of evidence and move to strike it out as a matter of inference and opinion.

Q. Who informed you that this single report ever was sent to anybody at all until after the Minneapolis convention? A. I don't know that anybody informed me.

Q. Why then did you testify that it was sent? A. I hardly see how I would have had it in my possession if it wasn't.

Q. Because you have it in your possession you assume that it was sent to you? A. If you put it as an assumption.

Q. I am not putting any assumption. Do I correctly understand you that you found this report you had forgotten all about among your papers, and you assume you got it through the mail? A. In the first place, I would not like to say that I had forgotten all about it.

Q. They why in the world didn't you when you were under oath at our last session tell us about it? A. Because I couldn't place my hand on it.

Q. You were asked if you remembered anything about it; and you wouldn't have said that if you did remember anything about it, would you? A. No.

Thereupon the parties adjourned until Tuesday, June 3, 1902, at 2.30 p. m.

228

WASHINGTON, D. C.,
WEDNESDAY, June 4, 1902—2.30 p. m.

The parties met at the same place, pursuant to adjournment.

Present for the complainant: Mr. Williams.

Present for the defendants: Mr. Darlington & Mr. Bigelow.

Cross examination of CAVOUR O. BOHRER resumed.

By Mr. DARLINGTON:

Q. How many sessions of this national council had you attended prior to the Minneapolis convention? A. The Louisville session only.

Q. Were you the only representative of the District of Columbia State council at the Louisville convention? A. No, sir.

Q. How many others were there? A. Past State Councillors, Steele and Moore, and National Representative Surgeon and Milstead. They were the national representatives, and myself.

Q. That is about all who were entitled to be present? A. There was only *only* representative present,—William C. Fowler.

Q. Since you have been a member of the order, can you remember any other instance where only one representative attended a meeting of the national convention? A. No, sir; I cannot; that is, representing the State council.

Q. On all former occasions there was money enough to pay
229 their way? A. Well, at the session previous—at Pittsburgh,—there was an appropriation made at the State council session after their return.

Q. But the money was there all right, was it not? A. Yes, sir.

Q. How did it happen at the Minneapolis convention there wasn't money enough to meet these usual expenses? A. I could not answer just now.

Q. Just think a moment and see if you cannot answer? A. Anything I said would simply be a presumption.

Q. Don't you know it was because the *per capita* tax voted at the Louisville session was so much more than it ever had been before that it exhausted the treasury? A. No, sir; I could not say that it was.

Q. What was the *per capita* tax voted at the Louisville session? A. Fifteen cents for the national council, and ten cents for the orphans' home.

Q. Twenty-five cents altogether? A. Yes, sir.

Q. What was the largest amount of the tax prior to that?

Mr. WILLIAMS: That is objected to as being shown by the records and further because the witness has knowledge of the facts only for the last few years; and unless the question is limited to some particular period.

Q. I mean the largest tax before that you know of or ever heard of? A. I could not go back beyond the previous session. As I remember then it was 17 cents.

50 230 → Q. So that this Louisville *per capita* tax was nearly or quite ~~15~~ 23% in excess of anything that had ever been known in the order, so far as your knowledge extends? A. Yes, sir; as far as I can remember.

Q. There was a special reason, was there not, for this large tax voted at the Louisville meeting, namely, the necessity of erecting buildings upon the newly organized or created orphans' home property? * * * (After a pause:) Wasn't the exceptionally large amount of the tax caused by the necessity of erecting buildings that year?

Mr. WILLIAMS: Objected to on the ground that no foundation has been laid for showing that this witness was in a position to have knowledge of the reason.

A. I haven't any knowledge.

Mr. DARLINGTON: The witness has testified that he was present at the Louisville meeting and voted for that tax. I submit he ought to have knowledge.

A. The only answer I can give is the one I gave previously, that the 15 cents was for the running expenses of the national council and the 10 cents for maintaining the orphans' home.

Q. Well now, is it possible that you don't remember that this large tax was made necessary by the necessity of erecting buildings on the orphans' home property? A. So far as I can remember, cottage No. 1, was completed, and No. 2 was very nearly so.

Q. But it had to be paid for? A. I could not say that.

Q. Now tell us what was the effect on the treasury of this large tax of 15 cents *per capita* for the running expenses of the order for the year immediately following the Louisville session? Was it not shown to be largely in excess of the needs of the order?

231 A. I could not say that it was.

Q. Did not the report of the treasurer at the Minneapolis meeting show an unexpended balance of nearly \$20,000. in the treasury derived from that tax?

Mr. WILLIAMS: I request that the report may be referred to.

Q. You may refer to the report, if you wish to, page 109 of the Minneapolis proceedings. (Handing book to witness, from which witness read aloud.)

Q. I am simply asking you if you did not know at that meeting at Minneapolis that the treasurer's report showed a surplus of nearly \$20,000. in the treasury, as the result of the 25 cents *per capita* tax levied at the Louisville session and the 17 cents *per capita* tax of the year before? A. I did not know that it was that much.

Q. Did you, or did you not, as the only national representative of the District of Columbia State council, advise yourself of the status of the order, or of its treasury, before voting? A. I trusted to the treasurer's report.

Q. Did you or did you not then know that the treasury at that time contained a large surplus? A. I knew they had a balance on hand.

Q. Did you not know it was a very large balance—nearly \$20,000? A. I knew they had a large balance, but just how much, I did not remember; didn't take the time to look it up; other things occupied my mind.

232 Q. How did you undertake to vote on the *per capita* necessary for the next year if you did not know at least substantially what the condition of the treasury was? A. The finance committee makes a recommendation; it was on their recommendation that I voted.

Q. I want to know what the fact is: Did you undertake to vote on this important matter, knowing that under the old assessment your own treasury here was empty, and couldn't send its members on, without at least knowing something about the condition of the national treasury other than the finance committee's report? A. That, I think, would go back to the Pittsburg session.

Q. My question does not go back to the Pittsburgh session. I ask you whether you voted for this 25 cents assessment, knowing that under the heavy rate for the two preceding years, your State council treasury was empty, and that the council could not send its members on, without advising yourself as to the condition of the treasury, and whether or not these previous levies had been needed? Did you do that?

Mr. BIGELOW: Why do you hesitate to answer, Mr. Bohrer?

Mr. WILLIAMS: Do you understand the question, Mr. Bohrer?

A. No; I do not understand the question to be frank.

Mr. WILLIAMS: The question is whether you knew the condition of the treasury of the State council?

A. No; I did not.

Mr. DARLINGTON: No; that is not my question at all. He says he knew that. He said that at the last session; that the State council could not pay the expenses of its own delegation on.

233 (Last two questions and answers re-read.)

The WITNESS: I think the stenographer has one mistake; has Pittsburgh where it should be Louisville.

Q. You told us you voted at the Minneapolis session according to your ideas of what was best. Was it your idea that it was best to tax your State council 25 cents *per capita*, which rate had already emptied the treasury, without knowing or inquiring whether the national council was using that much money? A. You mean the Minneapolis session?

(Question repeated.)

A. At Minneapolis, I certainly think I voted for the best interests of the State council.

Q. That does not come anywhere near answering my question. My question was; Did you think it best to continue taxing your State council at a rate which had already emptied the treasury without inquiring whether the national council needed the money or had a large surplus already in its treasury? A. Yes, I thought it best.

Q. That is, you did think that your State council ought to be assessed this heavy rate which had emptied its treasury without any inquiry as to whether the national council needed the money or not? That was your idea of what was best? A. Under the conditions, yes sir.

Q. To what conditions do you refer? A. From that session on the national council would pay the expenses of the representatives of the District of Columbia.

Q. Why did that better the condition of your own council?
224 A. Because we would always be assured of a representation.

Q. Don't you know you voted for this *per capita* tax before any resolution had been introduced in the national council to pay the expenses of its representatives? A. I knew the other was coming up.

Q. Did you know how it would go? A. No; but I felt confident how it would go.

Q. How did you know it was coming up; who told you that? A. The law committee's report.

Q. Had that particular report been considered, or submitted at all? A. Not as I remember.

Q. Now, let us look at the matter in another way. How much would be the tax of your State council at 25 cents per member? A. I don't know exactly.

Q. Between \$500 and \$600, would it not? It had about 2000 members or more. At 25 cents per member that would be \$500.? A. Yes, sir.

Q. What did your State council get for that \$500.? Anything? A. They would get their representatives there, and their expenses would be paid.

Q. How many representatives were they entitled to? A. For the next year four; for the following year there would have been three; for the following year two.

235 Q. They were losing their representatives under this beneficial arrangement, were they? A. Yes, sir; so were all the others.

Q. We will see about that later. What was the highest expense *per capita* for sending its delegates on, as you remember? About \$30. each? A. At Louisville they were given \$30. each.

Q. That was about the expense, was it not? A. Yes, sir.

Q. How much was it to Minneapolis? A. It cost me in the neighborhood of \$70.

Q. Did you not testify here the other day that the round trip to Minneapolis was about \$30.? A. No, sir; I said the railroad fare out there was \$28.50.

Q. Did you not get round-trip rates? A. No, sir; I did not get a round trip until I got out.

Q. How much was your return ticket? A. About \$11.

Q. About \$40 round trip? A. Yes, sir; but the Pullman car cost me, as I remember, in the round trip, about \$9.

Q. Did you think it for the interest of your State council to pay \$500. for the privilege of having its representatives' way paid, at an average cost of something like \$40 or \$50.? A. Did I think it to their advantage?

Q. Yes. A. Yes, sir.

Q. How does the advantage come in? A. They would have had them there.

236 Q. Suppose the tax had been at a moderate rate, such as had obtained in former years, and had enabled the council to send on its own representatives, would it not have enabled them to have them there? * * * Had they not always had them there before? A. I cannot answer anything about representatives prior to Louisville.

Q. Haven't you told us that so far as you know this was the first time they had been unrepresented except by a single person? A. Yes, sir; so far as I know, but I might ask what would be the cost if they had sent five representatives to Denver, or Omaha. They had had former sessions there.

Q. You say that the Minneapolis session cost you about \$70? A. About \$70.

Q. Was that all it cost you? A. Yes, sir; except perhaps for incidentals; I didn't keep track of them.

Q. From the time you left Washington to the time you came back, it cost you about \$70? A. Yes, sir.

Q. Did you go alone? A. I went with a party.

Q. Did you take anybody with you? A. Not at my own expense.

Q. Will you please tell us if you took anybody with you? A. There was a young lady accompanied me; simply under my supervision and care.

237 Q. Who was she? A. Miss Doughty.

Q. Who paid her expenses? A. She paid them herself.

Q. Do you know a publication known as the National Junior?
A. Yes, sir.

Q. You take it, do you? A. Before it was suspended it was sent to me.

Q. Published by a man named Buschman? A. It was.

Q. Did you read his account of the trip of the Maryland delegation and yourself? A. Yes, sir; I read that particular statement that Mr. Bohrer and his wife met the delegation at Washington.

Q. Was that true or not true? A. Not true.

Q. It was some other lady? A. My fiancée.

Q. Did she become your wife? A. No, sir.

Q. She paid her own expenses? A. Yes, sir.

Q. Your fiancée went with you and these other gentlemen to Minneapolis and paid her own expenses? A. She did.

Q. You were under no obligation then to this Maryland delegation? A. No, sir.

238 Q. In any way? A. In no way.

Q. Did you make a report to your State council when you returned? A. Yes.

Q. Did you say in that report that you had accepted the courtesies of the Maryland delegation? A. Simply on the train.

Q. Did you say so? A. I think I used a word similar to that.

Q. I hand you what purports to be a report by you containing the following: "To make the appropriation of this body go as far as possible, the courtesy of the Maryland delegation was accepted." Look at it and see if you made that report? A. Yes, sir; that is part of my report.

Q. Now, can you reconcile that with what you have just told us to-day? A. I think so.

Q. Please do so? A. The Maryland delegation had made arrangements for a car and gave me the privilege of going with them.

Q. How did that make the appropriation of your State council go as far as possible? A. Because I could not have gotten the rates.

Q. You could not have gotten the rate from whom? A. A single person could not have gotten the rate from the railroad.

Q. What courtesy did those gentlemen extend to you? A. The courtesy was simply the invitation.

Q. Don't you know that at the time the law prohibited any
239 railroad from making more favorable terms to one party than to another to the same point? A. I must admit that I did not.

Q. I wish you would explain a little more tangibly what this courtesy consisted of that you accepted? A. The invitation extended to me.

Q. Their courtesy was an invitation? A. Yes sir; an invitation to go with them.

Q. And that invitation supplemented and helped out the appropriation the State council made you? A. Yes, sir.

Q. Once more, will you tell me how it could have done that? A. By getting a rate I could not have gotten alone.

Q. Where did you buy your ticket? A. The ticket was furnished me at the station.

Q. By whom? A. Mr. Ogle.

Q. Who is he? A. A member of the order in Baltimore—clerk of the superior court of Baltimore city at the present time.

Q. How was he selling tickets for the railroad? A. I don't know.

Q. Did he also furnish a ticket, for this young lady? A. He did.

Q. Was that ticket at the same rate yours was? A. Yes, sir.

Q. A man by the name of Riemer was one of this Maryland delegation? A. Yes, sir.

Q. He came back national councillor? A. Yes, sir.

Q. A man by the name of J. Adam Sohl was one of this delegation? A. Yes, sir.

Q. He came back national council treasurer? A. Yes, sir.

Q. H. S. Barry was another? A. Yes, sir.

Q. He came back supreme judge of the national judiciary? A. Yes, sir.

Q. This Mr. Buschman who went on,—he came back with a subsidy or allowance for his paper out of the national council treasury? A. I think that was allowed afterward.

Q. You went on with them and you came back deputy national councillor? A. I was appointed that after I reached here.

Q. As a result of this Minneapolis meeting, was it not? A. I believe it is customary—

Q. I am not asking you that. A. I was made deputy national councillor.

Q. So that particular party fared pretty well in the distribution of honors and offices at Minneapolis? A. Yes, sir.

Q. How many other persons entitled to be representatives from this District were honored with this courteous invitation from the Maryland delegation? A. Several, as I recall.

Q. Do you know that any one was, if so, state who it was? A. Mr. Surgeon.

Q. Did he receive an invitation similar to yourself? A. Yes, sir.

Q. How do you know that? A. Because on one occasion when Mr. Ogle was in Washington, Mr. Surgeon and Mr. Boyden and he and I were at 433 Third St., when the invitation was extended.

Q. When was that? A. Prior to the session.

Q. How long prior? A. To the best of my knowledge and belief, it was a week or ten days.

Q. Was Mr. Boyden offered the same courtesy? A. [I think]* he was not entitled to go.

Q. As much so as this young lady, was he not? A. Yes, sir.

[* In pencil in copy.]

Q. Was he accorded the invitation? A. If he accepted it.

Q. Was he accorded the invitation, or was he invited to go? Can't you tell us that? A. To the best of my knowledge and belief, he was.

Q. Now, tell us some other representative who was invited to share this invitation? A. Mr. Steele was communicated with in reference to going with this delegation.

Q. By whom and how, and how do you know it? A. Well, from Mr. Ogle and myself.

Q. You saw Mr. Steele? A. Yes, sir.

242 Q. Tell us when and what you said to him? A. As nearly as I can recall, I went to his house and told him about the session, and when it was to be. He was on a committee at Louisville. I told him of the trip, how we were to go and what it would cost.

Q. Was Mr. Steele a national representative? A. No sir; he was a past State councillor.

Q. Do they represent the State council? A. They can if they wish to.

Q. Can you point out before you close your deposition, the provision under the constitution or by-laws enabling them to represent the State council? A. State councillors who received the *their* honors before June 1, 1901, had voice and vote in the national council.

Q. My question was whether they are the representatives of the State council? A. Not elective representatives.

Q. Are they representatives at all of the State council?

Mr. WILLIAMS: The question is objected to as one evidently to be settled by whatever the constitution and by-laws provide.

Mr. DARLINGTON: Counsel will recall that I asked the witness to point out the provision in the constitution and by-laws, and instead of that he has volunteered a statement.

Q. Before you close your deposition, refer us to any provision of the constitution or by-laws which made a past State councillor a representative of the State council. Now, can you mention any representatives of the State council that you or the Maryland
243 delegation invited to partake of this courtesy? A. The only other one I talked to was William C. Fowler. I spoke to him about it. He was one of the national representatives.

Q. Did you invite him to go? A. Yes, sir.

Q. On the same terms with you and the Maryland delegation? A. Yes, sir.

Q. What terms did you offer him? A. The terms that the Maryland delegation made with the railroad company.

Q. Please tell us what terms you offered him? A. I did not specify the terms, because I did not know the cost of it.

Q. At the time Mr. Ogle spoke to Mr. Sergeant and Mr. Boyden,

were any terms stated? A. If they were, they were before I reached the meeting.

Q. They were not then as far as you know? A. As far as I know, they were not.

Q. Do you know Mr. Bigelow? A. Yes, sir.

Q. Was he a national representative? A. Yes, sir.

Q. Was he offered these courteous terms? A. I don't know, sir.

Q. Do you know Mr. Milstead, another national representative?

A. He was not a national representative at that time. He was a past national representative.

244 Q. Was he entitled to attend? A. Yes, sir.

Q. You voluntarily you know in regard to Mr. Steele said he was offered this privilege. Was a like privilege offered to Mr. Milstead? A. I could not say.

Q. You have testified that you went uninstructed to Minneapolis. Did you invite instructions from anybody? A. I asked the State Council secretary, Mr. Boyden, if there were any instructions.

Q. Did you ask instructions on any point? A. He said there were none, if I remember his wording. Then I asked if there was any suggestion he had to make as to what I should do.

Q. On what subject? A. Any subject.

Q. Did you specify any subject? A. No, sir.

Q. When you asked whether there were any instructions, you referred to instructions from whom? A. The executive board.

Q. Has the executive board power to instruct delegates or representatives? A. In the absence of the session of the State council, I would say they had.

Q. Who composed the executive board? A. The State councillor, the State vice councillor.

Q. Give us their names. A. The State councillor was F. S. Neikirk. The State vice councillor was Mr. Schofield; the junior past State councillor was Mr. Moore; the State Council secretary
245 was Mr. Boyden.

Q. Was Mr. Boyden a member of the State executive committee? A. Oh, I suppose *ex-officio* he might attend their meeting.

Q. Give us his status? A. No, sir; he was not.

Q. Did you converse with any one of the executive board about any of the important matters you expected to come up at the Minneapolis session? A. Not unless it was Mr. Neikirk.

Q. Did you talk with him? A. I can't say that I did.

Q. When was your attention first directed to pages 53 and 54 of Exhibit C, report of the Minneapolis session, and by whom? (After a pause:) My question is a very simple one. By whom was your attention first called to those pages? A. My attention was first called to it, to the best of my recollection, when I read over the report.

Q. When was that? A. Prior to the session.

Q. Did you read that report entirely through? A. To the best of my recollection.

Q. Don't you know whether you did or not? A. Yes sir; I did.

Q. Why do you say, to the best of your recollection then? Why do you adopt that form of answer to almost every question I ask you? Did you call the attention of any of your fellow members to it before you got there? A. I can't say that I did.

Q. What made you ask Mr. Boyden whether there were
246 any instructions? A. If there was anything they wanted me to do specially, I would do it.

Q. Why did you not call his attention to these pages then, if you had seen them, and to the very important matters which, if you had seen them, you knew were coming up? A. Because I supposed he already knew it.

Q. Do you remember now supposing that and refraining from asking for that reason, do you? A. No, sir; I can't say that was the reason at all.

Q. Why did you say so then just this moment? I would like to have you remember hereafter that it is facts we want, and not tell us anything that you don't remember or know. Now, I ask you again, if before you saw Mr. Boyden and before you went to Minneapolis, your attention had been called to these pages showing the very important character of that meeting, as the writer of these pages understood it; why you did not say something to your fellow representatives and your executive committee, knowing that you would be the only man there to represent the District of Columbia. (After a pause :) Why do you hesitate to answer the question? A. I have no reason for it.

Q. You testified in chief that you received no instructions while in Minneapolis. Did you leave behind you any request that you might be instructed on these important matters? A. No, sir.

Q. You did not expect any instructions in Minneapolis? A. No, sir.

Q. Do you remember at all reading these pages, 53 and 54,
247 prior to the Minneapolis convention? A. Yes, sir; I do.

Q. What fixes that fact in your memory? A. It is a habit that I try to make—to read communications and such things as soon as I get them.

Q. I am not asking you about your habit. I am asking you about your recollection of reading these particular pages—of this statement by the secretary of the extraordinary importance of this meeting. I ask you now, if you remember reading these particular pages; and if so, what enables you to fix it in your mind? A. I have a memory of it.

Q. Is it fixed in your mind? A. Yes, sir.

Q. You remember seeing that statement before going out there?
A. Yes, sir.

Q. Well, what fixes it in your mind? A. I cannot tell.

Q. Were you impressed with the fact that the secretary there expresses, that this was one of the most important meetings in the

history of the body and that some of the most important matters were coming up there? A. No, sir; I did not consider it so.

Q. In what way did your impression differ from that of the secretary? A. That there would be an improvement in matters there.

Q. Did you or did you not agree with him in the view that of proper consideration was given to the business before the Minneapolis session, it would be the most important session ever held by the body?

Mr. BIGELOW: Why do you hesitate? Why don't you answer the question?

248 A. Because there was only one session I knew about. I didn't know of any other sessions.

Q. Did you or did you not agree with the secretary that it would be one of the most important ever held by the body? A. So far as I knew it would be an important session.

Q. What do you mean by 'an important session?' A. I could only answer for a few.

Q. Did you or did you not understand before you left Washington that this would be one of the most important sessions of the body? A. No sir; I did not.

Q. Then when you read this report of the secretary, you did not agree with him; is that right? A. Practically.

Q. Now, once more, in what particulars did you disagree with him? A. I did not see at that time that the changes in the laws would make such a great difference in the order.

Q. What business did you think was coming up before the body before you left Washington for Minneapolis? A. I knew the new laws were coming up.

Q. What new laws? A. The proposed new laws.

Q. What new laws? A. The laws as reported by the national council law committee.

Q. Once more, please tell us what laws were reported? A. Amendments to the old laws.

Q. Mr. Bohrer, why don't you tell us what amendments and what laws you refer to. I have asked you now four times. — Mr. 249 Darlington, I am not trying to prolong this at all. I am trying to give you as full information as I can.

Q. I ask you now for the fifth time what laws was it that you expected to come up before you left Washington for Minneapolis? A. If you will tell me a name to call these laws by, I will answer your question.

Q. I don't care anything about the name. It is the substance; anything to identify what you thought would be the subject before the body at Minneapolis? A. As far as possible to make the laws of the order conform to our national laws.

Q. Explain what you mean by that? A. Why, the laws of the United States.

Q. In what respect were you going to change the old laws so as to make them more like the laws of the United States? A. To put

them in division—to divide the work of the order into different branches; for illustration, the legislative, executive and judicial branches.

Q. Anything else? A. The only thing I thought was very important was the proposed women's auxiliary to the order.

Q. You did think that was very important? A. Yes, sir.

Q. Anything else? A. Nothing but what the previous answer has given.

Q. Mr. Bohrer, I don't want generalities in answer to my questions. A. I am not giving any generalities.

250 Q. If you thought this woman's auxiliary matter, and this division of the laws into executive, legislative and judicial branches was very important, how do you account for the fact that although you knew about these matters and had notice of them, you did not open your mouth about them to the executive committee, or any of the other representatives entitled to be present for the District of Columbia, although you took the money to go on as the representative of the State council? How do you account for that?

Mr. BIGELOW: The examiner will please note that the witness hesitates to answer.

A. My hesitation is simply to try to put it in a way to be understood. I considered that every member of the order was as much interested in it as I was.

Q. Were the other members of the order going on at the State council's expense as representatives? A. The representatives could.

Q. Were they? Were they, Mr. Bohrer? Was any other representative going on but you? A. No sir; none were going on.

Q. If you knew that there were these matters that you considered so important coming up, and you knew that you were going on at the State council's expense as its representative in the convention, how do you account for the fact that you never so much as mentioned these important matters, which you knew were coming up, to the executive board or asked for instructions from any member? How do you account for that? A. Because I depended on the State Council secretary for any instructions I would get.

Q. You told us a while ago that it never entered your mind to suppose whether he had read this report or not; so you could
251 not have been relying upon his knowledge.

Mr. WILLIAMS: Objected to as not stating what the witness said.

A. My impression is that you have got the answer just reversed.

Q. You said at first you supposed he knew about it, and I asked you whether you really had any such supposition in your mind, and you said, you had not. Do you recollect that? A. If I answered that way, I did not understand the question.

Q. How is it that you now recall thinking or reflecting, when you talked with Mr. Boyden, that he knew all about it. Do you recall any such thing in your mind then? A. Certainly.

Q. When you talked with him did you say to him, here are these important matters that are coming up. I would like to know how you or the members of the State council want me to act upon them?

A. After I asked him if there was any instructions, I remember his words were "to vote for anything and everything no matter how radical; it will bring the dissolution that much sooner."

Q. Bring what dissolution? A. Well, the start of the statement was;—what brought it to my mind—

Q. Answer my question, do you know what dissolution he referred to? A. No, sir.

Q. You asked for instructions and your instructions were
252 to vote for anything that would bring a dissolution, and you didn't know what dissolution he meant? A. No, sir.

Q. Had no idea? A. No sir.

Q. Why did you ask for instructions if you didn't want instructions? A. The answer was such a surprise to me that in common parlance I was knocked out.

Q. Why were you surprised if you did not know what it meant? A. That he should make a statement of that kind.

Q. Why did the statement surprise you if you did not know what it meant? (After a pause:) Won't you give us an answer? A. I will try to give you an answer.

Q. Why were you surprised by the statement if you didn't know what the statement meant? Would you like us to wait much longer for an answer? A. No sir; I would not.

Q. Then why don't you answer? A. I can't explain it.

Q. Did you ever see a combination report before the one issued at or about the time of the Minneapolis session? A. No sir; not to my recollection.

Q. Do you know of any object then of issuing the combination report except to make a large pamphlet which contained things people could not readily find? A. The object of a report of that kind, as I understand it, is to give the representatives and those en-
253 titled to vote an opportunity to read it over, so it will avoid occupying so much time in the session.

Q. My question was, since you have no knowledge of any prior combination report, if you knew of any object in putting all those things in one bulky combination report, other than to include in one pamphlet matters which would be less liable to attract notice than if they were separately bound; do you know of any other object? A. To put them before the members of the national council was the only object I know of.

Q. If this report of the law committee had been issued to the members alone and not in connection with a lot of other bulky matter, would they not have been more likely to read it. (After a pause:) If I cannot get an answer to my question, I will have to ask something else. A. I cannot say that it would.

Q. Returning now for a moment to this heavy *per capita* tax of 25 cents per member, what necessity was there for repeating that

tax at Minneapolis? A. I think the object was that it was for the support of the national council; and to help organize councils in new places was one of the objects.

Q. If the result of the 17 cents *per capita* tax at the Pittsburgh session and the 25 cents tax at Louisville had been to accumulate a large surplus in the treasury, what was the object in obtaining it?

A. Well, for one thing, to give an opportunity to extend the order.

Q. How much was appropriated at the Minneapolis session to extend the membership, of the order? A. I don't recollect.

254 Q. It was about one-third of the surplus then on hand, was it not? \$7000, out of a surplus of nearly \$20,000. Do you recall that fact? A. I don't recollect the appropriation.

Q. This appropriation was the one made at Louisville too? There was an appropriation made at the Louisville session to extend the order was there not? A. I believe there was.

Q. But still after making an appropriation at Louisville for the object of extending the order, and with a surplus of \$19,000 or \$20,000 in the treasury, you still voted to continue that regular appropriation because you thought it best? A. Yes, sir.

Q. You were aware, were you not, that up to this time alterations in the objects of the order were submitted to the members themselves for a vote before they were adopted? You knew that? I mean, before they became effectual? A. Yes, sir.

Q. Now tell us what idea that it was best was in your mind to take away from the membership this right of passing on alterations? A. Well, I considered at that session in the revision of the laws that all matters in the law could be brought up and acted on.

Q. You are telling us now what you thought *could* be done. I am referring now to your testimony in which you said you voted according to your ideas of what was best. I want you to give us your idea of why you thought it was best that the membership of the order should be deprived of the right they had always had of pass-

255 ing on these proposed alterations in the objects of the order before they became effectual? A. Well, it is this: In the first place, the length of time for it; and the membership at large did not accept the opportunity to do it—I am speaking of my own council; and it takes as a rule a longer time to get a reply to it.

Q. Do you know of any instance in which the members of your own council failed to act on any proposed alteration in the objects of the order? A. We only had one; that was the orphans' home.

Q. Did the members of the subordinate council of the District of Columbia fail to express their views on that matter? A. No.

Q. They did express their views on that object? A. I can only speak for my own council.

Q. Don't you know as a matter of fact that they did through the District of Columbia State council? A. No sir; I do not.

Q. What possible foundation have you then for your statement made just a moment ago that you knew from your own observation that the membership at large would not pass on proposed altera-

tions? A. In the first place, that wasn't my answer; and in the second place, I said I was judging from my own council.

Mr. WILLIAMS: Subordinate council?

A. Subordinate council.

Q. Did or did not your subordinate council pass on the proposed alteration about the orphans' home? A. It did.

Q. What were the proposed alterations which you found
256 the membership of your council did not pass upon? A. None.

My statement was to the effect that the councils took so little heart in it, as I recall it. In my own council, without referring to the minutes, I would say——

Q. We don't want your recollection unless you can give us the facts. We don't want impressions. A. —that simply about one-third of the membership voted on it.

Q. Now, as to the question of time, didn't your constitution and by-laws expressly fix the time within which your membership could act, and was there ever an instance when action was not had within the time allowed? A. I cannot answer that question.

Q. Then what did you mean when you told us that they would not act in time, or that it took a long time; did it ever take any longer than was allowed by the resolution itself to submit a matter to a vote? A. No sir, it did not.

Q. Then please give us some reason founded on fact, which made you think it best that you should pass on these alterations, and that the 2000 members of your own council should have no voice in it, as they had immemorially had? A. Well, it was for this reason. These objects are to all intents and purposes the same as they were originally, and couched in better language.

Q. Will you take the old charter or old constitution and point out the provisions about the woman's auxiliary which is the same as was the one adopted; and take the old constitution and by-laws and point out the one about the insurance branch which was the same
257 you have adopted; and also point out the provisions of the old charter which allowed the representatives who happened to be present at the Minneapolis session to take from the members of the order the right to pass upon questions of alterations in the objects of the order; and also the provisions of the old constitution and by-laws which gave to Nebraska with a membership of 97 the same vote on the question of a change of name of the order as Pennsylvania with 77,000. I group these questions because I am about to leave now, and I would like you to find the reference for me at our next session; and also please point out the provision in the constitution and by-laws which empowered the executive board of the State council to give instructions to the representatives to the national council.

Thereupon the parties adjourned to meet again on Monday, June 9, 1902, at 1.30 p. m.

JOSEPH HARPER, *Examiner*.

WASHINGTON, D. C.,
TUESDAY, *June 10, 1902*—2 p. m.

The parties met at the same place pursuant to adjournment.

Present for complainant: Mr. Williams.

Present for defendant: Mr. Bigelow.

Cross-examination of C. O. BOHRER continued.

By Mr. BIGELOW:

258 Q. At Mr. Williams' request I will read you the question left unanswered at the last session. Will you take the old charter or constitution and point out the provisions about the woman's auxiliary which is the same as the one adopted? A. There is no such provision as a woman's auxiliary in the old laws.

Q. Take the old constitution and by-laws and point out the one about the insurance branch which was the same you have adopted. A. Under the old laws there is an object four, and nothing more.

Q. Will you point out the provisions of the old charter which allowed the representatives who happened to be present at the Minneapolis session to take from the members of the order the right to pass upon questions of alterations in the objects of the order. A. By article one, section one of the national council constitution, the national council has the power to make the laws and govern itself and also the whole order; and in article 25, national council constitution, in regard to alterations, the first five year period, it gives the power to. The power was given at a previous session of the national council, and this was the fifth year—the first five year period after this power was given.

Q. Who told you that? A. The constitution says every five years.

Q. Who told you to make that answer? Why do you hesitate?

A. No one told me to make the answer.

259 Q. How do you know this was the five year period? A. For one reason, it was referred to at Louisville.

Q. Who referred to it as the five year period at Louisville? A. Why, in regard to the law committee's report down there.

Q. Was there anything in that about the five year period? A. As I recall, they said in the revision of the laws the five year period would be up at Minneapolis.

Q. The five year period for what? A. For the revision of the laws.

Q. Did you not know that there had been alterations made in the constitution at the Louisville session? A. There were some alterations made there.

Q. Then what do you mean by the session of 1899 being five year period; five years from what? A. From the time that that power was given to change the laws.

Q. That power in section 1, article 25? A. Yes.

Q. That provides that this constitution, or the general laws, shall not be altered oftener than once in five years except by a two-thirds vote. Is that the five year period you refer to? A. Yes.

Q. I want to ask you if either section 1, article 1 or section 1, article 25 referred to by you provides for an alteration in the objects of the order? A. Not directly.

260 Q. Well, does it indirectly? A. I think it provides for anything in that line.

Q. What part of the constitution provides for that?

Mr. WILLIAMS: Objected to on the ground that the witness has no right to express an opinion on the law; having called attention to the language of the law, the construction is for the court.

Mr. BIGELOW: I am not asking him to give his opinion as to the effect of the law, but to point out any part of either of those provisions which he has mentioned which provide for alterations in the objects of the order.

Mr. WILLIAMS: Objected to on the ground that the constitution and laws speak for themselves and can be construed by the court.

Q. Is there any provision in the constitution and laws other than article 2, section 42, which provides for alterations in the objects of the order?

Mr. WILLIAMS: Objected to for the same reason.

A. There is nothing specified, but in that article 1, section 1, it gives power to change all the laws.

Q. It does not mention objects of the order, does it? A. It does not mention the objects.

Q. So that neither provision you have mentioned specifies an alteration in the objects of the order?

Mr. WILLIAMS: Objected to as having been already answered.

A. Not directly.

Q. (Reading:) "Also the provisions of the old constitution and by-laws which gave to Nebraska with a membership of 97 the same vote on a question of a change of name of the order as Penn-
261 sylvania with 77,000." A. There was no provision in the old laws for that, and there was no vote taken under those conditions until after the new law was passed.

Q. Can you refer us to any provision in the constitution or by-laws of the State council of the District of Columbia which empowered the executive board of the State council to give instructions to national representatives? A. There is no law;—only the same power which permitted them to appropriate money.

Q. Did the power permit them to appropriate money? A. They did it.

Q. Wasn't it done by the State council? A. Not in the session,—the appropriations I referred to.

Q. Wasn't it done at the session of 1898? A. The report was approved.

Q. Whose report? A. The executive board.

Q. Wasn't the appropriation made in 1898 for expenses of a representative? A. Yes; I was not referring to that.

Q. Why then do you say that the executive board makes the appropriation? Did the executive board make the appropriation at all? A. Not for that. They did make an appropriation for the peace jubilee.

Mr. BIGELOW: I have not asked anything about the peace jubilee, and I move to strike out the testimony about that.

* * * * *

262 Q. Don't you know that the orphans' home was adopted at the Pittsburgh session of June 1897, and by a resolution was submitted to the subordinate councils for a vote of the members to be taken on the last meeting of every council in the September following? A. Yes, sir.

Q. You now remember that, do you? A. Yes, sir.

Q. So that it took 2½ months to get a vote on that proposed alteration, did it? A. Yes, sir.

Q. The subordinate councils meet weekly, do they not? A. Yes sir.

Q. And if the national council had seen proper to do so it could have ordered a vote to be taken on that proposed new object at the first meeting of each council in July, could it not? A. It had that power.

Q. And that would only have been a little over two weeks, is that right? A. Yes, sir.

Q. But as I understand it, by the new constitution adopted at Minneapolis, changes in that constitution are required to be submitted to the State councils for a vote? A. Yes, sir.

Q. How often do the State councils meet? A. Annually and semi-annually.

Q. So that some State councils would not meet for at least six months after the annual session of the national council; is that so? A. Yes.

263 Q. So that in order to get a vote on changes or alterations in the new constitution under this new plan, it would take at least six months, would it not? A. Yes.

* * * * *

Q. Under the new constitution, not only changes in the objects, but changes in every other part of the constitution, must be submitted to the State councils for approval, am I right? A. Yes; that is as I remember the law passed at Minneapolis.

Q. Well then, in view of what you have already testified to, will you please explain how any saving in time could be had under this provision? A. In no other way than I have stated.

Q. The old constitution of the national council did not require that amendments other than to the objects of the order and to the law in reference to regalias, should be submitted to either State or subordinate councils, did it? A. No.

Q. Then the main reason that you had in your mind at the Minneapolis session and which induced you to vote for this new constitution, really had no existence in fact, is that so? A. I think it had an existence.

264 Q. What existence in fact had it? A. I have told you as nearly as I can my reason.

Q. Can you tell us a little nearer? A. I have told you as nearly as I can.

Q. I understand you to say that about one-third of the membership of your council voted for the orphans' home as the sixth object of the order. You were the secretary of the council at that time? A. Yes.

Q. Did you send notices to the members of this object to be voted on? A. I cannot recall whether I did or not.

Q. How many members did your council have at that time? A. As nearly as I can recall, about 55.

Q. I show you what purports to be a report of Anacostia Council No. 16, State council of the District of Columbia, for the term ending September 30, 1897, purporting to be signed by C. O. Bohrer. I will ask you if you were the secretary of that council and if you recognize this report? A. Yes, sir; I recognize the report. I was the secretary.

Q. Will you please tell us what your membership was on that date? A. 41.

Q. Will you tell us what the vote of your council was on the orphans' home? A. 27.

Q. I understood you to say at the last session that the vote of your council was only about one-third of the members. A. That
265 was as near as I could recollect.

Q. So it turns out that it was two-thirds instead of one third. A. In my individual council it was, but by reference to the reports, I think you will find——

Q. I am not asking you about anything but your own council. That was what you based your testimony on. So that the other reason why you thought it was best to make these changes in the objects of the order has also turned out to be erroneous? A. Yes.

* * * * *

Q. You know that the subordinate councils are the direct representatives of the membership of the order, and that they support the entire order, including the State councils, and the national council; is not that so? A. Yes, sir.

Q. And are the only bodies of the order to pay either sick or death benefits? A. They pay sick benefits directly from the treasury, and those that I know of pay death benefits through some associations.

Q. Wasn't it done at the session of 1898? A. The report was approved.

Q. Whose report? A. The executive board.

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Q. You know that the subordinate councils are the direct representatives of the membership of the order, and that they support the entire order, including the State councils, and the national council; is not that so? A. Yes, sir.

Q. And are the only bodies of the order to pay either sick or death benefits? A. They pay sick benefits directly from the treasury, and those that I know of pay death benefits through some associations.

Q. For which they pay the premium? A. Yes, sir.

Q. What is your answer to the other part of my question? A. Yes.

Q. You knew these facts at the time of the Minneapolis session? A. Yes.

266 Q. In view of these facts, I will ask you, should not the members of the order have something to say about the alterations in the objects of the order which they carry out. A. They would have had if they chose to instruct their representatives.

Q. Have the subordinate councils any representation in the national councils? A. Only where there is four councils under the national council.

Q. What do you mean by that? A. That where there are four councils under the national council, there is a provision that they may elect a representative.

Q. I presume you mean that in a State where there are only four councils under the direct jurisdiction of the national council, they not being sufficient to constitute a State council, they may elect a representative to the national council; is that what you mean? A. That is it.

Q. But that condition of affairs exists only in a very few States; probably two or three? A. Yes.

Q. I am speaking about the general situation. Have the State councils as such representatives in the national council? A. They have not.

Q. Now the new objects, constitution and laws adopted at the Minneapolis session were not even submitted to the State councils for their ratification first? A. They were not.

267 Q. What was the urgent necessity for putting them into operation so quickly. A. I don't know.

Q. Was there any? A. No; there was not.

Q. By adopting these new objects, constitution and laws, it would become necessary for every State council and every subordinate council if they were satisfied to change its constitution and laws to make the same conform to the national councils laws; is that right? A. Yes, sir.

Q. And that in itself would involve an expense of many thousands of dollars? A. In the order at large.

Q. Did you think it best to loan the insurance branch \$5000. of the order's funds without any notice whatever to the State or subordinate councils or members and without giving them any opportunity to vote on the insurance branch or take any action whatever in the matter? A. I thought it was all right.

* * * * *

Q. You voted to change the name of the order to "United Americans," did you not? A. I voted to submit to the State councils the proposition to change the name.

Q. That was to be submitted to the State councils only; not to the subordinate councils? A. Yes.

Q. So that the following eight States—Kansas with 205 members, Michigan with 291 members, Alabama with 275 members,
268 Minnesota with 303 members, Montana with 117 members, Nebraska with 97 members, Oregon with 99 members, Washington with 272 members, and Wisconsin with 185 members, making a total for these eight States of 1541 members, would be entitled to eight votes on that question; is that right? A. Yes.

Q. And your own State council with 1671 members as reported at that time and which you have said had over 2000 in August 1899 would only have one vote, and also, Pennsylvania with 76,967 would only have one vote, and Nebraska with 97 members would have one vote; is that right? A. Well, in one way, it might seem an injustice.

Q. Would it in another way seem to be a great benefit? A. To change the name of the order, yes.

Q. Why do you say that? A. The name is a misnomer.

Q. The name you picked out for it in Minneapolis was worse than a misnomer; it had already been adopted by another organization?

A. We were not aware of the fact at the time.

Q. What do you mean by saying that this name is a misnomer?

A. Well, I think there is hardly one person in ten but thinks this is an organization of mechanics. I would have been in the order myself ten years sooner if I had known what it was.

Q. Well, are all of the members of the Masons masons? A. No, sir.

Q. Are all the members of the Odd Fellows odd fellows? A. No, sir.

269 Q. Taking the five States of Pennsylvania with 76,967, New Jersey 29307, New York, 7934, Virginia 7666, and the District of Columbia 1671, making a total of 123,579 members, would be entitled to five votes only on this change of name, or on any change in the constitution or objects of the order; is that right? A. Yes, sir.

Q. And the States I have mentioned having a total of 1541 members would be entitled to eight votes, or nearly twice as many. Did you think it was best that that condition of affairs should be brought about? A. In that particular case,—no, I do not. After observing it, I don't think it was best.

Q. Did you think it was best at that time? A. Yes.

Q. Then you did not give it any consideration at all, did you?

A. I did not spend very much time in considering it. That condition of affairs has been altered at the Philadelphia session.

Mr. BIGELOW: I object to what took place at the Philadelphia session.

Q. Did you think it was best to make an alteration in the first object of the order by striking out "foreign competition" and inserting "unrestricted immigration?" Q. Foreign competition results in unrestricted immigration.

Q. How do you make that out? A. The cheap laborers of Europe come here.

270 Q. Haven't you any better conception of the meaning of that object than that? A. I think that is about as clear a conception as I can have.

Q. My question was, what idea did you have in your mind that it was best to make that alteration? A. So as to get at the root of the matter.

Q. Did you really have any idea at all in your mind at this time why the efforts of the order instead of being directed towards shielding Americans from the depressing effects of foreign competition should be restricted to directing their efforts to shielding Americans from unrestricted immigration only? A. The only improvement would have been to retain the "competition."

Q. If you had any idea on the subject please let us have it? A. Well, as I said a moment ago, my idea is that we were getting at the root of the matter when immigration was restricted.

Q. Did you understand that unrestricted immigration was the only foreign competition that affected Americans? A. No; not the only.

Q. Then why did you want to restrict the efforts of the members of the order to that particular thing? A. Simply because I thought it was best for the order.

Q. That is what I am trying to get at; why did you think it was best; what was your idea of why it was best? A. I can't see how I can answer that question unless I tell you the same thing over again.

271 Q. We don't want the same thing over again. Did you think it was best to establish a national judiciary consisting of three so called supreme judges, in whose selection neither the national council, the State councils, the subordinate councils, nor the members of the order had any vote? A. The national council has the approval of the selection. They approve the judiciary.

Q. You say it did have under the new constitution? A. The national council was to ratify them.

Q. Who appointed them? A. The national councillor.

Q. Does the new constitution provide for their election by the national council in session? A. No, sir.

Q. Don't you know that it does not? A. So far as I know.

Q. You know that neither the State nor the subordinate councils have any vote in the matter of their selection? A. I do.

Q. You understood that before you went to Minneapolis that the establishment of this national judiciary would make radical changes in the constitution of the order, did you not? A. I did.

Q. Did you realize at that time that this so-called national judiciary would be made the instrument by which the new objects, constitution and laws would be foisted upon the order? A. I knew they would have the interpretation of the law.

Q. I believe you said that Mr. Neikirk was State councillor.

272 A. He was.

Q. What is his business? A. He keeps a stand in the market for the sale of butter and eggs.

Q. Do you keep a stand in the same market? A. Yes.

Q. How far is his stand from yours? A. Thirty feet.

Q. Did you not see him almost daily during the entire time and talk with him almost daily? A. Yes sir.

Q. You knew he was State councillor at that time? A. Yes sir.

Q. And that he was chairman of the executive board? A. Yes, sir.

Q. Why did you not mention these changes to him? A. I considered that I did.

Q. Were you not asked that question at our last session? What is your answer? Did you or did you not? A. As near as I can recall I did speak to him about it.

Q. About what? A. About going to the session.

Q. I am speaking about the national judiciary; did you speak to him about that? A. I cannot say now that I spoke to him about the national judiciary.

Q. Did you say anything to him about the other changes;—
273 about the women's auxiliary? A. I can't recollect the particular points I spoke to him about.

Q. Did you say anything to him about any of those proposed changes? A. In general conversation?

Q. Well, did you?—in a general or special conversation? A. In a general way.

Q. What did you say? A. I can't recollect it.

Q. Don't you know what it had reference to? A. No; not at this time I can't tell.

Q. Did you ask for any instructions as to how to vote on anything at Minneapolis? A. No, I did not, from him.

Q. Did you from anybody else? A. Simply as I said, from the State council secretary.

Q. What did he tell you? A. So far as I can repeat, the conversation given in the last session.

Q. Well, repeat it. A. Simply to the effect that there was nothing. Then on the other question, he told me to vote for anything and everything, no matter how radical; that would bring a dissolution that much sooner.

Q. What day was it that you asked for those instructions; when he paid you? A. The day he gave me the check.

Q. You didn't understand those instructions at all, did you?

274 A. I did not understand what the result would be.

Q. You did not know what dissolution he was referring to. A. I supposed he meant some of the councils here in the city.

Q. Why did you suppose that? A. Because there was nothing else to suppose.

Q. Did you not say you had no idea about it at the last session?
A. I was referring to the results, at that session.

Q. You didn't know what dissolution he meant? A. Not the result of the dissolution. I understood him to mean here in the city.

Q. Why did you not ask him what he meant? A. I gave an answer to that before.

Q. Please answer it again? A. That the dissolution, as I understood it, would be something here in the District.

Q. Dissolution of the councils? Did he mean that the tax would be so heavy, to carry out those new things, that they would have to dissolve? A. That would be a surmise I might make.

Q. Did you think that? A. No; I did not think it would be the tax.

Q. Well, what did you think it would be? Did you think it would be the national judiciary that would put them out of the order? A. No; the only thing I thought in regard to that matter;—Mr. Boyden got a digest——

275 Q. I am not asking about any digests. I am asking what dissolution you thought there would be? A. I say, some of these councils, of the national council.

Q. They were not under the national council directly; they were under the State council? Did you understand that he meant the dissolution of the State council? A. No; I did not.

Q. I believe you said that in common parlance you were knocked out by this answer? A. Yes.

Q. And that you did not understand what he meant by it? A. That was my answer.

Q. Now, prior to that time were you ever so unfortunate as to be knocked out by a statement you did not understand?

Mr. WILLIAMS: Question objected to as too general altogether, and not specifically directed to any particular subject.

A. I cannot recall any special instance.

Q. When did you recover from this knockout? A. I haven't any idea.

Q. Was it prior to your going to Minneapolis? A. I can't answer that; it may have been or it may not.

Q. Had you recovered at the time you escorted the young lady to the train? A. Yes.

Q. Then did you seek an explanation of what the secretary
276 meant by these instructions to you? A. I had no opportunity to.

Q. Did you telegraph him from Minneapolis? A. I did not.

Q. If you had recovered thoroughly from this knockout you could have telegraphed him, could you not? A. I could.

Q. After you had gotten there and found out the real condition of affairs, you could have telegraphed him for instructions, could you not? A. Yes, sir.

Q. Or to the State councillor? A. Yes, sir.

Q. You did neither? A. No, sir.

Q. Will you please tell us what benefit the State council heretofore has derived from the payment of the *per capita* tax to the national council? A. By being a part of the national council.

Q. What benefit is that? A. That is a matter of opinion. I think it is beneficial.

Q. Simply a matter of opinion with you? A. Yes, sir.

Q. Don't you know of any benefit it received? A. The benefit of being a part of the order.

Q. Does the State council get anything more than a pass word for this tax? A. They did not up to 1899, unless they had a committeeman, and they had his expenses paid.

Q. But it hasn't received anything else; has it? A. No.

277 Q. Did they have any committee-man? A. Steele was on the committee; he didn't go.

Q. Even if he had been there, would that be of any advantage, either financial or otherwise, to the State council? A. I think it is considered so.

Q. Well, please tell us what advantage? A. It brings the State council before the order.

Q. How does it do that? A. Because it gives them an opportunity to take part in the proceedings.

Thereupon the parties adjourned until Wednesday, June 11, 1902, at 2 p. m., at the same place.

JOSEPH HARPER, *Examiner.*

* * * * *

Q. You said that one of the benefits that the District of Columbia State council could get by the levy of this tax of 15 cents *per capita* at Minneapolis would be the payment of the fare of representatives to the Philadelphia session. A. Excuse me; I did not say to the Philadelphia session.

Q. To the next session? A. Yes, sir.

278 Q. Where was that? A. It was voted for Detroit, but owing to the difficulty, the board of officers changed it to Philadelphia.

Q. How many representatives would the State council have been entitled to under the new constitution and laws at the Philadelphia session? A. Four.

Q. You know that the five State councils of Pennsylvania, New Jersey, New York, Virginia and the District of Columbia having 123,579 members, under the new constitution and laws would be entitled to 29 representatives at the Philadelphia session? A. I could not positively state as to the number.

Q. That is a conceded fact, and that the other States having a membership of 60,000 or thereabouts, would be entitled to about 100 representatives; do you know that? A. No, not positively.

Q. Well, you have made some study of this matter since the Minneapolis session, haven't you? A. Some.

Q. Don't you know that those figures are substantially correct?
A. Yes sir; substantially so.

Q. And you also know that the eight States that I mentioned at our last session having a total membership of 1541 members would be entitled to 24 representatives at Philadelphia? A. Substantially. I could not say without referring to the records just how many.

Q. In view of those facts can you explain in any way, how
279 the State council of the District of Columbia, would be benefited by the levy of this tax? A. They would not appear immediately, but as the other councils lost their representatives, the State council of the District would be entitled to representation there.

Q. Would not the State council of the District lose its representatives in the same manner as the others? A. Yes, sir.

Q. So that the number of representatives would be decreased—was being decreased all the time? A. Yes, sir.

Q. And it was actually decreased so that all the States had only 91 representatives at Philadelphia? A. Yes, sir.

* * * * *

Mr. BIGELOW: At the request of Mr. Williams, I state that I am willing to concede that the pamphlet entitled "Report of law committee" produced by him is a part of the combination report produced by him, and is also identical with Exhibit Y filed heretofore in this cause.

JOSEPH HARPER, *Examiner*.

* * * * *

Re-direct examination.

By Mr. WILLIAMS:

Q. Referring to the report of the law committee which Mr. Bigelow has just referred to, and which I now hold in my hand, being the same as Exhibit Y—is it correct that you received a copy
280 of that report separately? A. Yes, sir.

Q. Is that what you answered heretofore? * * * There being a question as to whether the examiner got your answer before, I ask you whether that is what you answered at the previous session? A. Yes, sir.

Q. When did you receive this paper? A. In the early part of May.

Q. What year? A. 1899.

Q. Referring to the trip to Minneapolis, and the testimony relative to Miss Daughy accompanying you, were there any other ladies in the party? A. Yes, several.

Q. Name any of them? A. Mrs. Ogle, Mrs. George A. Davis, Mrs. W. J. Davis, Mrs. Walter Barry. I don't recollect the names of the others.

Q. Were there others? A. I don't recollect whether there were others or not.

Q. Were those ladies you referred to travelling in the same car with Miss Daughy? A. Yes.

Q. Was Miss Daughy employed at that time? A. She was.

Q. How? A. As a clerk in the Treasury Department.

Q. Referring to the financial report at the Minneapolis session, which showed a certain balance in the national treasury, can
281 you state from the report, or refer to the report, and show whether a portion of that balance wasn't money which was due to the orphans' home? A. On page 3 of the finance committee's report, it says "Balance due the orphans' home, \$4,909.05."

Q. That is a portion of the balance on hand of \$19,000? A. Yes.

Q. Referring to the *per capita* tax paid by the State council of the District of Columbia to the national council up to the Minneapolis session, how was that *per capita* tax raised? A. By a *per capita* tax from the subordinate councils.

Q. Levied by what body? A. Levied by the State councils.

Q. What was the amount of that tax in the years preceding the Minneapolis session? A. 40 cents.

Q. What was it that year? A. The same.

Q. So that after paying the 25 cents *per capita* tax, there was still 15 cents left? A. Yes, sir.

Q. Was the National Junior published by Mr. Buschman the only paper of the order which received an allowance from the national treasury? A. It is not.

Q. Do you know of any other paper? A. The American, the Good of the Order, the Mountain State Gavel.

Q. Where is the American published? A. At Pittsburg.

282 Q. Is that a paper devoted to the interests of the order?
A. Yes, sir.

Q. Was it being published in the year of the Minneapolis session? A. It was.

Q. Did you receive the paper then? A. Yes.

Q. Do you remember whether you saw the issue of May 20, 1899, which I now show you? A. Yes; I saw that paper.

Q. I call your attention to an article in this paper on the 4th page; being the editorial page, reading as follows:

Mr. BIGELOW: I object to the reading of the editorial on the ground that it is immaterial, a matter of opinion and hearsay and not proper re-direct examination.

Q. "The national council law committee has completed its work in making a general revision of the laws, constitution &c., of the order, and by this time every member of the national council has received a printed copy of the report." And then follows a brief discussion of the report. I ask you whether this paper containing this statement just read was in circulation among the members of the order at the time of its issue, May 20th? A. Yes sir; it was.

Mr. WILLIAMS: I offer the paper in evidence, as purporting to be

a paper published and circulating in the order, dated May 20, 1899, and as containing a notice of the meeting of the national council, and a statement of the sending out of the report of the law committee, one month in advance of the session.

283 Marked by the examiner Complainant's Exhibit # 8.

Mr. BIGELOW: I object to the introduction of this editorial for the reason that the statements it contains are the mere assumptions, which are not based upon any facts, and also for the reason that it merely gives the opinion, inferences and conclusions of the writer.

Mr. WILLIAMS: The contents of the paper are not offered in evidence, but only the portion read, which contains a statement of fact, the statement being that the printed copy of the law committee's report had been sent out.

Mr. BIGELOW: If the object of this is to prove that the report of the committee on law was printed and published at the date of that paper, then I object to it as not being the best evidence, it being already shown who the printers of that report were; and in this connection I desire to say that Mr. Williams informed me sometime ago that he intended to take the deposition of the printer of the report in Richmond.

Q. I call your attention to a communication in the second column of this same page, headed "Warning" and signed "William L. Boyden," and ask you whether you saw that at the time? A. Yes sir; I did.

Q. Who is the William L. Boyden whose name is signed to this communication? A. State Council secretary of the District of Columbia.

Q. Had you any knowledge of the fact that this communication came from the District of Columbia aside from the fact that the name of William L. Boyden is signed to it? A. Only know-
284 ing the party referred to.

Q. You knew then of the circumstances or subject matter of the communication, and that the circumstances referred to the District of Columbia? A. Yes, sir.

Mr. BIGELOW: I object to this as being immaterial, irrelevant and incompetent, and for the further reason that it has not been shown that this is the communication of William L. Boyden, the present secretary of the State council of the District of Columbia, nor has it been proven to be the communication of any one.

Q. Referring to the courtesies of the Maryland delegation did the Maryland delegation have a party rate; that is, a reduced fare for the entire party? A. They did.

Q. Was the fact that they allowed you to avail yourself of that rate what you referred to in your cross examination? A. It was.

Q. Did you receive instructions when you were a delegate to the Louisville session? A. On one point only.

Q. What was that point? A. To vote for the Daughters of America as the official auxiliary of the Junior Order of United American Mechanics.

Q. Is it customary to instruct delegates or representatives to the national council, so far as you know from your experience as a member of the State council? A. It is not.

285 Mr. BIGELOW: I object to the question and answer unless the witness is shown to have some knowledge on the subject.

Q. Referring to a vote of the subordinate councils upon the adoption of the orphans' home as an object of the order, can you refer us to the record showing what proportion of the members of the subordinate councils of the District of Columbia voted on that proposition?

Mr. BIGELOW: Objected to as immaterial.

A. I can. On page 95 of the proceedings of the Louisville session, it showed that 12 councils voted; there were 341 votes cast.

Q. How many councils were there in the District of Columbia at that time? A. 20 I think.

Q. How many members. A. The report shows that there were 1531 beneficiary members and — honorary members.

Mr. WILLIAMS: I ask the examiner to note that on page 110 of the proceedings of the Louisville, Ky., session the total vote for the adoption and maintainance of the orphans' home as a sixth object of the order is 19,140 for and 16,224 against, making a total of 35,364 votes, which was the entire number of members who voted on this sixth object in the whole order.

Q. What was the total membership of the order at that time?

Mr. BIGELOW: It is admitted that the total membership of the whole order at that time was about 180,000.

286 Q. You have said that at the Philadelphia session the manner of representation was changed. Will you give us a reference to that session showing the change? Please point out also the page of the Philadelphia session which shows the alterations in reference to the number of votes of State councils on approval of amendments of the constitution?

Mr. BIGELOW: I object to the question as not being proper redirect examination, and for the further reason that the Philadelphia session was a session at which the representatives of the State council of the District were denied admission; and also on the further ground that the proceedings of the Philadelphia session are as revolutionary as those of Minneapolis.

A. Pages 212 and 213 of the Philadelphia session shows the amendment.

Q. When you say that members of the national council received copies of the law committee's report, who do you mean, representing the District of Columbia? A. The State council representatives and past State councillors.

Q. How many were there of them? A. Five representatives, as near as I can recollect, and six past State councillors.

Q. Were any of those on the executive board? A. Neikirk was ; he would be entitled to admission at that session.

Q. Was William L. Boyden a member of the national council? A. He had been. He was a past representative.

287 Q. Would he be entitled to receive a copy of the law committee's report? A. I believe it is customary to send it to the State Council secretaries, and he would receive it in that way.

Mr. BIGELOW: Objected to unless the witness shows some knowledge of the custom.

Q. Referring to your conversation with Mr. Boyden on the occasion of his giving you the money for Minneapolis, and on a former occasion which you have testified was very shortly before that time, did Mr. Boyden by his conversation show any knowledge of the proposed laws? A. He expressed no opinion on them.

Q. I did not ask you whether he expressed an opinion on them; I ask whether he showed a knowledge of the fact that the Minneapolis session would be called upon to pass upon the revision of the laws? A. No.

Q. Do you mean to say that he showed he did not know?

Mr. BIGELOW: I object to the question as leading. That he did not know.

A. The only thing that he said that would give me the impression that he had was the statement he made.

Mr. BIGELOW: I object to the witness' impressions.

Q. What statement? A. In regard to voting for everything and anything that would bring a dissolution.

Q. You attended the Louisville session? A. Yes, sir.

Q. The report of that session showing that the laws were referred to the law committee for revision was published, was it not?

288 Mr. BIGELOW: The question is objected to as being leading and suggestive.

A. It was.

Q. When was that published? A. It was published in the proceedings. I cannot give the date. It was prior to the State Council session in August 1898.

Q. How do you know that? A. The representatives used the report to get their report from. The State Council representatives who

attended the Louisville session used the report of the Louisville session in making out their report to the State council.

Q. Do you mean that you used it? A. I signed a report that was taken from it.

Q. I will ask you whether Miss Daughy went with you all the way to Minneapolis? A. She did not. She stopped at Lake City with relatives and friends.

Q. And you went on to Minneapolis? A. Yes, sir.

Re-cross-examination.

By Mr. BIGELOW:

Q. Do you know whether any of the other representatives of the State council received a separate report of this law committee? A. I cannot say of positive knowledge.

* * * * *

289 Q. Do you know whether or not this \$4,909.05 was paid to the orphans' home prior to the Minneapolis session? A. No; I do not.

Q. Don't you know it was not paid? A. Only from what the report says.

Q. Is not the money that is due the orphans' home,—*per capita* tax,—paid to it as it is due every year? A. I cannot say that it is.

Q. What knowledge have you that the tax which the subordinate councils paid to the State council of the District of Columbia after the session of 1899 was 40 cents? A. I had no knowledge after 1899.

Q. Did you not testify that the State council collected a tax of 40 cents per member after its meeting of August 14th and 15th, 1899? A. If I did, I misunderstood the question again.

Q. The fact is that since that time it has only charged 5 cents a quarter, or 20 cents a year. A. I know the *per capita* through September was ten cents per member.

Q. But that was a part of the quarter preceding? A. That was from June 30 to September 30.

Q. Do I understand you to say that the tax of ten cents per member, or 40 cents per year, went on up until the end of September, 1899? A. To the State council.

Q. As a matter of fact, after that your own council did not pay any tax to the State council, but paid to the national council is that right? A. That is right.

Q. Then you have no knowledge that after that the State
290 council collected that tax? A. No; I have no personal knowledge.

Q. Have you any knowledge that it only collects, and did at that time only collect 20 cents per year from each member? A. Only from hearsay.

Q. Well, where did you hear that? A. I think it was a member of the America council stated it to me.

Q. That council was formerly under the jurisdiction of the national council, and then it came back and re-joined the State council? A. Yes, sir.

* * * * *

Q. On what information or facts did you base your answer that it was not the custom of State councils to instruct their representatives how to vote? A. In looking over the proceedings of past years, I could not find any instructions.

Q. It is on that that you base your answer that it is not the custom? A. Yes.

Q. Since you have been a representative, there never was a session of the national council where fundamental and radical changes were made in the objects, constitution and laws, prior to the Minneapolis session, was there? A. No, sir.

* * * * *

CAVOUR O. BOHRER.

Subscribed to before me this 1st day of July, 1902.

Counsel for complainant announced his case closed.

JOSEPH HARPER, *Examiner*.

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Memoranda as to Exhibits.

Exhibit Identification May 31, No. 1 is a book of official proceedings of the 26th annual session of national council held at Asheville, N. C., June 19, 20, 21, 22 and 23, 1894; and is transmitted herewith.

Exhibit Identification May 31, No. 2 is a book of official proceedings of the 27th annual session of national council held at Omaha, Neb., June 18, 19, 20 and 21, 1895; and is transmitted herewith.

Exhibit Identification May 31, No. 3 is a book of official proceedings of the 28th annual session of national council held at Denver Colorado, June 16, 17, 18 and 19, 1896; and is transmitted herewith.

Exhibit Identification May 31, No. 4 is a book of official proceedings of the 29th annual session of national council held at Pittsburg, Pennsylvania June 15, 16, 17 and 18, 1897 and is transmitted herewith.

Exhibit Identification May 31, No. 5 is a book of official proceedings of the 30th annual session of national council held at Louisville, Kentucky, June 21, 22, 23 and 24, 1898; and is transmitted herewith.

Exhibit Identification May 31, No. 6 is the same as Exhibit "C" filed with the bill of complaint.

Exhibit Identification May 31, No. 7, is the same as Complainant's Exhibit "D" filed with the bill of complaint.

For Exhibit No. 1, see Complainant's Exhibit A, with original bill—page 15 of this record.

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DEFENDANTS' EXHIBIT, Nov. 12, 1901, No. 1.

To the officers and members of subordinate councils of Pennsylvania, New Jersey, New York, Virginia, and District of Columbia.

DEAR SIRs AND BROTHERS: At a meeting of prominent members from the above-named States, held at Trenton, N. J., on August 25th, 1899, the following was adopted:

Your attention is called to the change made in the objects, in direct violation of article II, sec. 2, national council constitution, which reads as follows:

SEC. 2. The objects of this order shall not be altered unless proposed in writing, and if adopted, the alteration shall be submitted to the members of the order for a vote thereon, and shall be of no effect unless approved by a majority vote.

Objects Before Change.

Objects of the Order.

SECTION 1. First. To maintain and promote the interests of Americans, and shield them from the depressing effects of foreign competition.

Second. To assist Americans in obtaining employment.

Third. To encourage Americans in business.

Fourth. To establish a sick and funeral fund.

Fifth. To maintain the public school system of the United States of America, and to prevent sectarian interference therewith, and uphold the reading of the Holy Bible therein.

294 Sixth. To promote and maintain a National Orphans' Home.

Objects After Change.

Objects of the Order.

First. To maintain and promote the interests of Americans, and shield them from the depressing effects of unrestricted immigration; to assist them in obtaining employment, and to encourage them in business.

Second. To establish an insurance branch and a sick and funeral fund.

Third. To uphold the American public school system; to prevent interference therewith, and to encourage the reading of the Holy Bible therein.

Fourth. To promote and maintain a National Orphans' Home.

Your attention is called to the fact that upon the adoption of the new laws the national council immediately proceeded to change the name of the order from "Jr. O. U. A. M." to "United Americans," and instead of submitting it to a vote of the membership, at large, as has been the established custom, it has placed it in the hands of the several State councils, each State council having but one vote, yes or no, thus disfranchising the subordinate member.

Look at this: Pennsylvania, New Jersey, New York, Virginia

and the District of Columbia, with a combined membership of 126,000 have but 5 votes, while Nebraska, Washington, Kansas, Michigan and Wisconsin, with a combined membership of 1,050, have 5 votes.

Your attention is also called to the unequal representation in the national council: Pennsylvania 77,000 members, 11 representatives; New Jersey 30,000 members, 6 representatives; New York, 9,000 members, 4 representatives; Virginia, 8,000 members, 4 representatives; District of Columbia, 1,800 members, 3 representatives. Total membership 126,000—gets 28 national representatives, or 1 representative for each 4,500 members, while the remaining 32 States, representing but 57,000 members, get 96 national representatives, or 1 representative for each 594 members.

Your attention is called to the laws adopted by the national council wherein they propose paying the expenses of all national representatives, committees and officers at the rate of 2½
295 cents per each mile traveled, and \$3.00 for each day of the session or fraction thereof, and one day previous to the session.

The number of officers, representatives and committeemen to the next session of the national council, to be held at Detroit, will be 191—38 of which are past State councilors, past national councilors and past national representatives who are serving on the various committees in place of national representatives who ought to be there and thus save the additional expense.

The national council proposes to save expense to the State council by paying the expenses of the officers, representatives and committeemen to the national council out of the treasury of the national council. Let us see if this is true. It will cost, to bring these 191 men to Detroit, the place of next session of national council, at a low estimate of \$75 each, \$14,325—for which there has been no provision made by the national council, hence must entail an increase in the *per capita* tax next year of at least 8 cents per member. Under the former laws, each State paying the expenses of its own representatives, it could be done for—Pennsylvania, 11 national representatives at \$50 each \$550; New Jersey, 6 national representatives at \$50 each, \$300; Virginia, 4 national representatives at \$50 each, \$200; New York, 4 national representatives at \$50 each, \$200; District of Columbia, 3 national representatives at \$50 each, \$150, or a total of 28 national representatives for \$1,440. Under the proposed laws, with an additional 8 cents *per capita* to pay the expenses above named, Pennsylvania must furnish \$6,160, New Jersey, \$2,400, Virginia \$640, New York \$720, District of Columbia \$160—a total of \$10,080. Where is the saving?

296	The report of the finance committee of the national council, made at the opening of the session showed a balance on hand of.....	\$19,953.00
	Of the amount, there was due orphan's home..	\$4,909.00
	In connection with above report they made a supplementary report of expenditures (after report was printed).....	3,500.00
	Appropriation by national council for salaries to national officers, rituals, &c	2,500.00
	Loan to a so-called or proposed beneficiary degree, without any security for its return.....	5,000.00
	Estimated expenses of the national session, based on expenses of former sessions.....	4,000.00
		<hr/> \$19,909.00

This plainly shows that the national treasury is now empty.

This same finance committee submitted an estimate of the amount needed to run the national council for the ensuing year, at \$51,000. In this amount there was no provision made for the payment of the expenses of national representatives, committees, and other persons who will attend the next session of the national council—the cost of which, at a low estimate, will be about \$15,000, thus making the expenses of the next at least \$66,000. “Is this not alarming?”

Your attention is called to the expense for special organizers last year, amounting to \$6,143.50 (in addition to premiums). The official report shows that in the twenty-four (24) States in which organizers were employed there was a net gain of only two councils. What have these organizers done?” In face of the facts the national council again appropriates \$7,500 for special organizers. Re-
 297 member, not one cent of this money is spent in Pennsylvania, New New Jersey, Virginia, New York, or the District of Columbia.

Your attention is called to the appropriation of \$2,500 for periodicals. What good have the periodicals done? Nothing!

Your attention is called to national council—Tyler's administration, 1895 and 1896; increase of membership, 13,140 members and 142 new councils. Per capita tax 8 cents per member. Bear in mind the eight (8) cents per capita tax was on a membership of 150,000, which brought into the national treasury the sum of \$12,000. National Councilor Pierson's administration, 1898 and 1899; increase in membership, 2,677, loss of 125 subordinate councils. Per capita tax 25 cents per member. This tax of 25 cents per member was on a membership of 180,000 which brought in the sum of \$45,000—just \$33,000 more for the use of Pierson's administration than was used by Tyler's administration. (And expenses still increasing.)

Your attention is called to the annual agitation for a change of ritual and the expenses incident thereto, which is also a serious

cause of uneasiness and detrimental to the best interests of the subordinate councils.

Your attention is called to the State council of Pennsylvania and other States who joined in the call for an aye and nay vote, which call was refused under the unjust and dictatorial ruling of N. C. Pierson. Pennsylvania's national representatives were instructed by the State council in session at New Castle, September, 1898, to call for the ayes and nays.

298 & 299 Your attention is directed to the fact that \$40,000 has been spent by the national council in organizing in the West, and that less than \$9,000 has been received in return for the investment. Notwithstanding the large sums spent in that section annually, there has been a steady decrease. Having paid premiums of \$25 each on 491 councils, that section only had 137 councils in existence on December 31st, 1898, with only 5,723 contributing members.

We recommend that you instruct your representatives to the State body that they vote to refuse to pay any further *per capita* tax to the national council, and also refuse to recognize or accept the new laws illegally adopted, until the national council shall legally adjust these matters and give us representation based upon taxation and membership.

Yours fraternally,

WM. A. PIKE,
Of Pennsylvania,
WM. H. MIERS,
Of New Jersey,
FRED E. PARKER,
Of New York,
E. T. KEETON,
Of Virginia,
W. L. BOYDEN,
Of Dist. of Columbia,
Committee.

* * * * *

300 & 301 *Memorandum.*

For Exhibit No. 2, November 12, 1901, see Exhibit A to bill, page 15 of this record.

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302 & 303 *Memoranda.*

For Complainant's Exhibit No. 4, see exhibit identification May 31, 1901 No. 5, which is a book of official proceedings of the 30th annual session of national council held at Louisville, Kentucky, June 21, 22, 23 and 24, 1898.

Complainant's Exhibit No. 5, is a pamphlet entitled Combination Report and is transmitted herewith.

For Complainant's Exhibit No. 6, see pamphlet of general laws &c., transmitted herewith.

For Complainant's Exhibit No. 7, see Exhibit Y, which is a report of the law committee, and filed May 2, 1902.

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304 *Depositions on Behalf of Defendant.*

Filed April 30, 1903.

In the Supreme Court of the District of Columbia.

NATIONAL COUNCIL, JUNIOR ORDER UNITED American Mechanics,	}	No. 21890. Equity.
STATE COUNCIL, JUNIOR ORDER UNITED American Mechanics.		
<i>vs.</i>		

Met pursuant to notice at the office of J. J. Darlington, Esq., No. 410 Fifth street, N. W., Washington, D. C., at four o'clock, p. m., April 20th, 1903.

Present:

On behalf of complainant, A. A. Birney.

On behalf of defendants, J. J. Darlington, the examiner and the witnesses.

Whereupon THOMAS P. MOORE, a witness of lawful age, produced by and on behalf of the defendant, being first duly sworn, was examined by

Mr. DARLINGTON:

Q. Please give your full name? A. Thomas P. Moore.

Q. Are you a member of the Junior Order United American Mechanics? A. Yes, sir.

305 Q. What position do you hold in that order? A. Past State councilor.

Q. For what State? A. For the District of Columbia.

Q. Were you a delegate to the convention held in Louisville in 1898? A. I was entitled to a vote and voice there as past State councilor, though not credited as a delegate. By virtue of being a past State councilor, I was *ex officio* a member of that body.

Q. Were you present as a member of the District of Columbia delegation? A. Yes, sir.

Q. Mr. Bohrer has testified in this case that the District of Columbia delegates, at the Louisville convention, voted along the same lines with those who, at Minneapolis, enacted the measures the legality of which are in controversy here; please state what measures, if

any, were voted for by the District of Columbia delegates at Louisville, which were along the same lines, or which in any way related to the addition of a life insurance feature, or endowment rank, or a change which would admit of altering the advantages of the order without a vote of the subordinate councils? (Counsel for complainant objects to the question for the reason that the testimony of Mr. Bohrer upon this subject was given on cross examination, and not in chief examination, and is not a subject of contradiction.) A. I do not remember of any such measures as were enacted at Minneapolis having been brought up in any way whatever at the Louisville session.

306 Q. Can you give us any explanation of Mr. Bohrer's statement that the District of Columbia delegates at Louisville voted with the same parties that he voted with at Minneapolis? (Objected to by counsel for complainant for the same reason.) A. I voted as I felt disposed to vote, I do not know how the rest of the delegation voted. They may have gone into a caucus, or they may have not, I would not go into a caucus.

Q. Do you know of any alignment of the District delegation at Louisville with any faction, which, at Minneapolis, passed the laws, the validity of which is now in controversy? A. I can only say that they voted on a good many measures with Steve Collins and the Maryland delegation at Louisville; as far as the Minneapolis meeting goes, I cannot answer.

Q. Will you please state what these measures were which they voted on at Louisville in harmony with Collins and the Maryland delegation? (Objected to for the reasons already given.) A. They voted with the West and Maryland delegation for Reimer for national councilor, and voted with the West and the Maryland delegation on the Daughters of America question. They had up the question of recognizing the D. of A.

Q. When did you first know that it was proposed to add an insurance feature as one of the objects of the order, or to have a uniform rank, or to so alter the constitution as that the objects of the order could thereafter be changed without submission to the subordinate councils, or any other of these measures which were adopted at the Minneapolis session? A. I never knew of it until after they were adopted.

Q. You did not learn of them until after the Minneapolis session? A. Yes, sir.

Q. What can you tell us about the receipt by you of copies of the law committee's report, or of any other report foreshadowing these measures prior to the Minneapolis convention? A. I do not remember of ever getting any before the convention at all.

Q. Can you state whether, if you had received such reports, you would, or would not, likely to have remembered it? A. Yes, sir; I would be very likely to have remembered it.

Cross-examination.

By Mr. BIRNEY :

Q. You voted as an independent at the Louisville meeting did you not? A. Yes, sir.

Q. Do you know of any caucus having been held by the other District of Columbia representatives? A. I do not know of their holding any caucus by themselves.

Q. What means, if any, did you take to check up their votes so that you might know how they voted in the convention? A. I had not any means at all; some of them said they so voted.

308 I cannot say all of them said so, but some of them did.

Q. How many were there in the delegation, including past councilors? A. I do not remember exactly; I think about six went from the District, two past State councilors and four representatives; I think that was the number.

Q. There were a good many other subjects than those you mentioned, that were voted on at Louisville, were there not? A. Yes, sir; a good many subjects but I cannot call them to my mind now.

Q. Do you know how the District of Columbia members voted on these subjects, except the D. of A. question and the election of Reimer? A. No, I could not say.

THOS. P. MOORE.

Sworn to and subscribed before me this 28th day of April, A. D. 1903.

GEO. W. ALLISON,
Examiner in Chancery.

WILLIAM L. BOYDEN, a witness of lawful age, produced by and on behalf of the defendant, being first duly sworn, was examined by

Mr. DARLINGTON :

Q. Please give your full name and place of residence. A. William L. Boyden, 433 Third street, northwest.

Q. In this city? A. Yes, sir; in this city.

309 Q. If you are a member of the District of Columbia State council, Junior Order United American Mechanics, please state how long you have been so, and what position, if any, you hold in that order? A. I have been a member of the State council of the District of Columbia since its organization in 1894, and have been its State council secretary from its inception up to and including the present time.

Q. Please state whether, in your capacity as secretary, the amount of moneys contributed by the State council to the national council would come to your knowledge. A. It would.

Q. What has been the amount of money contributed by the District of Columbia State council to the national council since the

organization of the former? (Objected to as immaterial.) A. The amount of *per capita* tax has been in the neighborhood of \$925.00 paid to the national council. Other sums have been paid to the national council for supplies amounting to about \$80.00 and for the orphans' home fund \$50.00.

Q. What has the State council received from the national council in return for the *per capita* taxes? (Objected to as immaterial.) A. On its institution, the State council received the necessary minute books, roll books, ledgers and stationery of that kind which would pertain to the State secretary's office and annually, since that time, the pass-word.

310 Q. Can you give us, approximately at least, the value of these supplies furnished by the national council to the State council at the time of the organization of the latter? (Objected to as immaterial.) A. About \$50.00 would cover it.

Q. It appears in the testimony thus far taken in this case that the District of Columbia State council was without funds to pay the expenses of delegates to the Minneapolis convention, can you tell us why that condition then existed? (Objected to as immaterial.) A. The excessive taxation of the national council *per capita* tax.

Q. Just explain that, Mr. Boyden? A. I mean by that the national council levied annually a *per capita* tax which sum, or tax, had been gradually increasing from year to year, and this amount of tax required nearly all of the money that was collected by the State council in *per capita* taxes from the subordinate councils, leaving as I say practically no money in the treasury wherewith to meet other than the regular routine expenses of a State council; so that there was no money left, or sufficient, to send the delegates to the national body.

Q. What occasion, if any, existed for so increasing the *per capita* tax in favor of the national council as to thus exhaust the re-
311 sources of the State council. (Objected to as immaterial.) A.

The heavy expenses which the national council incurred, its extensive expenditures for mileage and *per diem*, the employment of national organizers, the maintaining of a national legislative committee, the orphans' home and subscriptions to the various periodicals of the order.

Q. Can you tell us whether, at the time of the Minneapolis convention, the *per capita* tax had been sufficient to pay all these items and yet to leave a large surplus in the hands of the national council? A. It had.

Q. Now, what necessity, if any, existed for continuing that rate of *per capita* taxation which thus was yielding the large surplus? (Objected to as immaterial.) The increased expenses incident to maintaining the National Orphans' Home, and the enactment of laws whereby the mileage and *per diem* of the representatives to the national council were paid by that body instead of by the State councils, as formerly, are two of the reasons I think of at this time.

Q. Please state whether or not the expenses of the orphans' home

had not been met for the preceding year and still this surplus left remaining? (Objected to as leading, suggestive and incompetent.)
A. I do not recollect on that point.

Q. It has been claimed in the testimony here that you, Sergeant, Steele and Fowler were invited by the Maryland delegation to accompany them to Minneapolis, what was the fact about that? (Objected to as immaterial.)
A. The only fact that I know of is
312 that the Maryland delegation usually went to the national sessions in a special coach and came to Washington on their way to the session, and the Washington delegation was invited to go with them simply as a matter of courtesy.

Q. To what extent, if at all, would this reduce the cost to the District of Columbia delegation? A. I cannot say as to that. It may have reduced it some but very slightly probably.

Q. In what way would it reduce it? (Objected to as immaterial.)
A. The way that I recollect that it reduced it was owing to the fact that the gentleman from Baltimore who usually arranged this trip had some understanding with the railroad people whereby he could make the rate less.

Q. It appears to be stipulated in this cause that, on August 1st, 1899, there was \$184.69 in the hands of the treasurer of the District of Columbia State council; if this be so, why was it that the State council was without money with which to send its delegates to the Minneapolis convention? (Objected to as immaterial.)
A. As a matter of fact, at the time of the national session and just prior thereto, that amount of money was not in the treasury of the State council, as the quarterly *per capita* taxes did not commence to come in until the end of June; in other words, June was the last of one of the quarters and the money did not come in until after the 30th of June.

Q. Mr. Bohrer has testified that, prior to leaving for Minneapolis, he called upon you, or the executive board, for instructions as to how he should vote, or what he should do; what is the fact in that regard? A. He never suggested the asking of instructions from me.
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Q. Were you a member of the executive board? A. No, sir.

Q. Who composed that board? A. The State councilor, the State vice councilor and the junior past State councilor, I being the secretary of the board *ex officio*, by reason of the fact that I was secretary of the State council.

Q. You were a member then? A. Yes, sir, *ex officio*.

Q. What authority, if any, had the executive board to give instructions to the delegates to the national convention? A. No authority.

Q. Who, if any one, did have such authority? A. The State council in session.

Q. What were the dates of the sessions of the State council? A. The State council, at that time, was holding semi-annual sessions in February and August of each year. As a matter of fact, what was

called the semi-annual session to be held in February of 1899, was postponed to about March 10th, of the same year, on account of the severe storm which raged in 1899, when the session was to have been held.

Q. Do I understand that this was the last session of the State council prior to the Minneapolis convention? A. It was.

314 Q. Mr. Bohrer has testified that, on the eve of his departure for the Minneapolis convention, you directed him, or requested him, to vote for everything which was radical and would bring on a dissolution sooner; please state to what extent, if at all, this testimony is correct? A. I did not make the remark which he credits me with.

Q. Please give us any and all facts giving color to his testimony upon this point, if there are such facts? A. I did say to him that the more radical the laws which were sought to be passed, the sooner would it cause dissension in the organization.

Q. What led to your making that remark to him? A. The knowledge of some of the laws which I had just had given to me.

Q. Laws which you had had given to you? A. The knowledge which I had.

Q. In what manner had you received this knowledge? A. I became acquainted with the proposed legislation, some of it, through discussion with Past National Councilor Robert Ogle of Maryland, a few days prior to his departure for the national session at Minneapolis, when he showed me a copy of the proposed legislation.

Q. When did you first see that copy? A. That was the first time.

Q. Please state whether you, at any time, received a copy of what has been referred to in this case as the law committee's report, or any other report, foreshadowing these changes? A. I never received any.

Q. Now what did Ogle tell you was then in contemplation? A. The enactment of a beneficiary degree, or endowment rank, changes in the form of the laws whereby the old form of the laws was to be substituted by laws claimed to be modeled after the Constitution of the United States, and embracing under their head the legislative, executive and judicial work of the order.

Q. How long was that before the departure of Mr. Bohrer for the Minneapolis convention? A. That was only a few days, not more than ten days prior to his departure.

Q. To what extent, if at all, had a dissolution of the order been contemplated, aimed at, or desired by yourself, or by the District State council, in so far as you know? A. None at all.

Q. What dissension between the State council and the national council existed prior to the Minneapolis proceedings in so far as you know? A. No dissension.

Q. What dissension, or dissatisfaction, by the State council with the national council now exists outside of these radical measures of

the Minneapolis convention and subsequent attempted proceedings under them? A. I do not exactly understand what you seek to bring out by that question. I may say, though, as is known, the State council of the District of Columbia has been suspended and its charter revoked by the national council.

Q. That however, was a consequence of these Minneapolis measures and the proceedings under them? A. Yes, sir.

316 Q. My question is, what dissension, or dissatisfaction, on the part of the State council with the national council now exists, outside of, or except for, these Minneapolis measures, and the subsequent proceedings under them? A. The dissatisfaction of those in control of the national body, and of course the same dissatisfaction exists now as it did at the time of the passage of those laws.

Q. But that, Mr. Boyden, as I understand, was all caused by these Minneapolis laws and those proceedings under them? A. Yes, sir.

Q. My question is what cause of dissension, or cause of difference, now exists between the State and national councils except those growing out of these Minneapolis proceedings and the subsequent proceedings of the national council based upon them? A. The misrule of the national officers.

Q. Do you mean the misrule of the national officers in other respects than these Minneapolis proceedings? A. Yes, sir.

Q. Then to what do you refer? A. Do you wish me to make a lengthy statement of these matters?

A. I wish you to state concisely but fully what causes of dispute there are between the State and the national councils, outside of the difference which arose over the Minneapolis proceedings, if there are any? A. It is simply a matter of personal opinion, I will give you.

317 Q. If you have any knowledge, let us have it? A. The personal opinion of myself, and of course I speak generally, of those with whom I associate, is that one man by the name of Stephen Collins has control of the organization in the manner of what we ordinarily term a boss, that his leadership in this respect is one of personal gain, that he has so conducted the affairs that he has become secretary of the endowment rank, or beneficiary degree, of the order and editor of the official paper of the order, and, as such, gets a revenue therefrom, and this same company which he represents, and which publishes this paper, has control of the furnishing of the supplies such as stationery and blank cards which have to be filled in, etc.

Q. Prior to the Minneapolis convention, what monopoly, if any, was there in this card supply? A. None.

Q. Then this objection is one that grows out of the Minneapolis proceedings? (Objected to as leading.) A. There are a number of objections, you understand.

Q. I am now speaking of this one matter of supplies? A. That monopoly grows out of the Minneapolis proceedings.

Q. And now recurring to the secretaryship of the endowment rank, please tell us from what that endowment rank springs? A. From the laws of the national council.

Q. At what session? A. At the Minneapolis session.

318 Q. Now what I have asked you to tell us is what causes of dissension or difference between the national council and the State council exist, outside of the Minneapolis proceedings, arising from other matters than the Minneapolis laws? A. Well, the enactment of subsequent laws which have come to our knowledge, not officially, because we have no national body, but from hearsay.

Q. You are now referring to laws which you understand have been passed since the Minneapolis proceedings? A. Yes, sir; I want to explain, in connection with the secretary of the endowment rank, that the law does not specify who the secretary shall be.

Cross-examination.

By Mr. BIRNEY:

Q. Was Mr. Collins an officer of the national council prior to the Minneapolis convention? A. No sir, he was not a line officer but he may have been on a committee for all I know.

Q. When did the State council of the District of Columbia, or you and your friends in that council, first begin to find fault with Mr. Collins as a boss? A. I could not state that.

Q. It was some time prior to the Minneapolis convention, was it not? A. Yes, sir.

Q. There had been some continued dissatisfaction for some time on that account? A. With Mr. Collins, yes, sir.

Q. How did he show his disposition to act as a boss? A. By what is ordinarily termed as manipulation.

319 Q. And where was that shown, at what meetings of the order? A. At all sessions of the national body from 1894 and on.

Q. What was his position in the national body most of that period? A. Most of that period he was national organizer.

Q. And that dissatisfaction had grown to a considerable extent before the Minneapolis convention? A. Well what do you mean by a considerable extent?

Q. I will let you explain that? A. Then I can say that it had.

Q. How had you been made aware of it as it generally exists in the District of Columbia? A. By personal contact with the members of the order.

Q. Had it been the subject of discussion at the meetings of the order in the District of Columbia? A. What do you mean by the meetings of the order?

Q. At meetings of any of the subordinate councils, or State council? A. I do not recollect that.

Q. But it had been the subject of discussion between you and your associates in the order? A. Yes, sir.

Q. You have testified that Mr. Ogle of Maryland showed you a copy of the proposed laws prior to the meeting of the Minneapolis convention, was that copy in print? A. Yes, sir.

Q. That was a report of the law committee of the national council? A. Yes, sir.

Q. Is there any way in which you can fix the date of seeing that paper? A. Only I am positive that I did not see it more than ten days previous to his departure to the national council session.

Q. Did you obtain a copy of it from Mr. Ogle? A. No sir, it was his personal copy he showed me while here.

Q. Did you see any other copies before the delegates left for Minneapolis? A. No.

WM. L. BOYDEN.

Sworn to and subscribed before me this 28th day of April, A. D. 1903.

GEO. W. ALLISON,
Examiner in Chancery.

321 *Deposition of William H. Miers.*

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Stipulation.

It is hereby stipulated by and between the parties to the above-entitled cause, by their solicitors, that a commission may issue to J. W. Reed, Trenton, New Jersey, to take the deposition of William H. Miers, a witness called on behalf of the defendants, upon the interrogatories and cross-interrogatories hereto annexed, which deposition, when so taken, may be read at any hearing of the said cause, subject to all just legal objection to the competency and materiality thereof.

A. A. BIRNEY,
GEO. FRANCIS WILLIAMS,
A. W. SHUNK,
Solicitors for Complainant.
J. J. DARLINGTON,
Per S., Solicitor for Defendant.

322 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United Ameri- can Mechanics, <i>et al.</i>	}	

Direct Interrogatories to William H. Miers.

1. Please state your name, place of residence and occupation.
2. Were you present at the meeting of the National Council of the Junior Order United American Mechanics held at Minneapolis, in the year 1899? If so, please state in what capacity you were so present.
3. State whether you were present on the occasion when, as set forth as page 116 of the minutes of the said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole;" and, if so present, please state such facts, if any, as are within your knowledge tending to show whether or not those laws were adopted by a two-thirds vote.
4. Were you present when the *per capita* tax for the ensuing year was fixed by the national council at its said meeting at Minneapolis? If so, state what, if anything, was said by G. Howell Arthur, chairman of the finance committee, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax.

323 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United Ameri- can Mechanics, <i>et al.</i>	}	

Cross Interrogatories to William H. Miers.

NOTE.—It is understood that the third and fourth direct interrogatories are severally objected to by complainant as incompetent and immaterial, for reasons to be stated at the hearing or trial of this cause, and that then and there, complainant will move to strike out the answers to said two interrogatories.

X 1. Please state whether you voted on the question of the adoption of the code of laws referred to in direct interrogatory or question

numbered three; and if so whether you voted for or against the motion to adopt the said laws.

X 2. How many members of the national council were present in session at the time when said vote was taken; and by what method, or upon what information, do you base your conclusion that the number here stated by you was the number so present at that time?

324 X 3. Did you see any member, or members, of the national council give the voting sign against said motion to adopt said laws, and if so, how many? Did you count them at the time said vote was taken?

X 4. Please state the form, or language used by the national councilor, or presiding officer of the national council, when he announced the result of said vote, and please state whether or not there was any objection made by any member of the national council when the result of said vote was announced, on the ground that it had not been carried by the votes of $\frac{2}{3}$ of the members present.

X 5. When, where, and from or by whom did you first hear the point raised that the revised laws had not been legally adopted at the said Minneapolis session of the national council because the minutes do not show that $\frac{2}{3}$ of the members present voted for the adoption thereof?

X 6. Were you present at the session of the national council at Louisville in 1898 when, as shown in the printed proceedings of said session at page 113, "P. S. C. Collins, of Pennsylvania, moved to refer the general laws, constitution of the national council and of subordinate councils under the jurisdiction of the national council to the incoming law committee, for general revision, which was agreed to," and if so in what capacity were you so present?

X 7. Were W. H. R. Martin, Thomas S. Sergeant, C. O. Bohrer, J. W. Milstead, Henry F. Steele, and Thomas P. Moore, members of the national council from the District of Columbia, or any of them present on the occasion referred to in the foregoing interrogatories at said Louisville session or convention? If not, were they

325 or any of them present at any other time at said Louisville session or convention?

X 8. Were you present at the session of the national council at Detroit in 1893, when, as shown in the printed proceedings of said session at pages 131-133, the laws under consideration (meaning the general laws and constitution of the national council) were referred to the incoming law committee to be reported etc., at the next session, and if so in what capacity were you so present?

X 9. Were you present at the session of the national council at Asheville in 1894, when, as shown in the printed proceedings of said session at page 100 the general laws and constitution of the national council (as revised) were adopted as a whole on motion of P. N. C., G. W. Elbert, and if so, in what capacity were you so present?

X 10. Were you present, or, if not present, do you know of any session or meeting of the National Council of the Junior Order of

United American Mechanics held between the Asheville session of 1894 and the Minneapolis session of 1899, at which a general revision of the general laws of the order and of the constitution of the national council, or either of them, was made or adopted? If so, please state the date and place when and where such session or meeting was held, and (if you can) refer us to the document or report in which the action taken was recorded or published.

X 11. How near to said G. Howell Arthur were you at the time that you say that he said what you attributed to him in your answer to the fourth direct interrogatory, could you hear distinctly what he said at the time, and is what you have stated in said answer
 326 all that he said (according to your best recollection) in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax, at the time referred to? If not, state as fully as you can what else he said at that time in relation to that matter.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America <i>versus</i> THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United Ameri- can Mechanics, <i>et al.</i>	}	No. 21890. Equity.
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Answers to Direct Interrogatories as Given by William H. Miers.

1. William H. Miers. Trenton, N. J. State Council secretary of New Jersey, Jr. O. U. A. M.

2. Yes, as a past State councilor from New Jersey and member of the national council.

3. I was present on the occasion as set forth on page 116, minutes of national council session of 1899, when the committee arose and through its chairman reported a code of laws. P. S. C. Collins of Pennsylvania made a motion that the report be accepted and laws adopted. The vote was taken by the usual show of the order (elevation of the
 327 left hand). In my judgment the motion was carried only by a majority vote of those voting, not by a vote of two-thirds of the members present, for reason a number of members voted against the adoption of the laws and a large number of members did not vote either way. I carefully observed the vote because I was very anxious about the result. In conversation with members of the body, I express my opinion that the laws did not receive the necessary two-third vote and were not adopted.

4. Yes, objections were made to the recommendation of the finance committee making a *per capita* tax for general purposes of fifteen

cents, and an amendment was offered to strike out fifteen and insert ten cents. The amendment was lost. In the discussion in favor of and against the fifteen cents by members of the body, it was stated by G. Howell Arthur that it was necessary to make the tax fifteen cents for reason that having organized the insurance branch or beneficiary degree, it would need assistance, or words to that effect.

Answers to Cross Interrogatories as Given by Wm. H. Miers.

1. Yes, I voted against the adoption of the laws.
2. There were between one hundred and thirty and one hundred and forty present. I base conclusions as to number present from the yea and nay vote as recorded on page 117, being the next vote taken after the vote on the laws, there being one hundred and thirty-nine votes recorded.
3. Yes, I saw a number of members vote against the adoption of the laws. In my judgment there were between thirty and forty votes against the law and as many more did *not* vote either way.
- 328 I did not count them when the vote was taken.
4. I cannot give you the exact language. The usual custom being for the presiding officer to say, "Motion adopted or carried." I do not remember of objections being made by any member of the body when the vote was announced on the grounds that it was not adopted by two-third vote of the members present. It was a general talk among the members of the body that the laws did not receive the necessary two-third vote and that they were not legally adopted.
5. I cannot now say who first raised the point that the laws were not legally adopted, the talk was very general and spirited, at Minneapolis and also on the way home on train, it was the talk of the members of the body that the laws had not received the required two-third vote.
6. I was present at the session of the national council held at Louisville, 1898, as a past State councilor from New Jersey and member of the national council. I do not remember whether I was in the room or not when P. S. C. Collins moved to refer the laws etc. to committee for revision.
7. I cannot say whether the parties named in interrogatory No. 7 were present when the motion was made or not. From the records of the national council they were present at roll call and answered to their names. I saw them at various times during the session.
8. No.
9. Yes, as a past State councillor from New Jersey and member of the national council.
10. Yes, I have no recollection of a general revision of the laws between 1894 and 1899.
- 329 11. I was, as near as I can remember, between thirty and forty feet from Mr. Arthur at the time he was talking in favor

of the fifteen cents *per capita* tax and in favor of the insurance branch, and could hear him distinctly.

WILLIAM H. MIERS.

J. W. Reed, the commissioner in the said commission named, first duly took the following oath, viz :

STATE OF NEW JERSEY, } ss :
Mercer County,

I, J. W. Reed will according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission hereunto annexed (orally) (upon the interrogatories now, or which may hereafter, before the said commission is closed, be produced to and left with me, by either of the parties) so help me God.

J. W. REED.

Sworn and subscribed before me this eighth day of June, A. D. 1903.

[SEAL.]

W. HOLT APGAR,
Notary Public, New Jersey.

330

Stipulation.

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	} No. 21890. Equity.
<i>versus</i>	
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	

It is hereby stipulated by and between the parties to the above entitled cause, by their solicitors, that a commission may issue to Frank G. Primrose, 164 Montague street, Brooklyn, New York, to take the depositions of Lewis F. Page and William S. McClure, witnesses called on behalf of the defendants, upon the interrogatories and cross-interrogatories hereto annexed, which depositions, when so taken, may be read at any hearing of the said cause, subject to all just legal objection to the competency and materiality thereof.

A. A. BIRNEY,
 GEO. FRANCIS WILLIAMS,
 A. W. SHUNK,
Solicitors for Complainant.

J. J. DARLINGTON,
 Per S.,

Solicitor for Defendant.

331 *Depositions of Lewis F. Page and William S. McClure.*

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Direct Interrogatories.

1. Please state your name, place of residence and occupation.
2. Were you present at the meeting of the national council of the Junior Order United American Mechanics, held at Minneapolis, in the year 1899? If so, please state in what capacity you were so present.
3. State whether you were present on the occasion when, as set forth at page 116 of the minutes of the said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole;" and, if so present, please state such facts, if any, as are within your knowledge tending to show whether or not those laws were adopted by a two-thirds vote.
4. Were you present when the *per capita* tax for the ensuing year was fixed by the national council at its said meeting at Minneapolis? If so, state what, if anything, was said by G. Howell Arthur, chairman of the finance committee, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax.

332 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Cross Interrogatories.

NOTE.—It is understood that the third and fourth direct interrogatories are severally objected to by complainant as incompetent and

immaterial, for reasons to be stated at the hearing or trial of this cause, and that then and there, complainant will move to strike out the answers to said two interrogatories.

X 1. Please state whether you voted on the question of the adoption of the code of laws referred to in direct interrogatory, numbered three; and if so whether you voted for or against the motion to adopt the said laws.

X 2. How many members of the national council were present in session at the time when said vote was taken; and by what method, or upon what information, do you base your conclusion that the number here stated by you was the number so present at that time?

X 3. Did you see any member, or members, of the national council give the voting sign against said motion to adopt said laws, and if so, how many? Did you count them at the time said vote was taken?

333 X 4. Please state the form, or language used by the national councilor, or presiding officer of the national council, when he announced the result of said vote, and please state whether or not there was any objection made by any member of the national council when the result of said vote was announced, on the ground that it had not been carried by the votes of two-thirds of the members present.

X 6. When, where, and from or by whom did you first hear the point raised that the revised laws had not been legally adopted at the said Minneapolis session of the national council because the minutes do not show that two-thirds of the members present voted for the adoption thereof?

X 6. How near to said G. Howell Arthur were you at the time that you say that he said what you attribute to him in your answer to the fourth direct interrogatory, could you hear distinctly what he said at the time, and is what you have stated in said answer all that he said (according to your best recollection) in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax, at the time referred to? If not, state as fully as you can what else he said at that time in relation to that matter.

STATE OF NEW YORK, }
County of Kings, } ss :

For answer to the first direct-interrogatory :

My name is Lewis F. Page, I reside at No. 651 Dekalb avenue, in the borough of Brooklyn, in the city of New York; my occupation is State council secretary of the Junior Order of United American Mechanics.

334 For answer to the second direct interrogatory :

I was present at the meeting of the National Council of the Junior Order United American Mechanics held in Minneapolis in

the year 1899 as a delegate representing the State council of the Junior Order United American Mechanics of New York.

For the third direct-interrogatory :

I was present on the occasion when as set forth at page 116 of the minutes of said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole ;" and from the fact that when the voting sign was given it seemed there were nearly as many voted against the adoption of said laws as voted for their adoption and that some delegates did not vote. I am positive that said laws were not adopted by two-third vote of those present.

For answer to the fourth direct-interrogatory :

I was present when the *per capita* tax for the ensuing year was attempted to be fixed by the national council at said meeting at Minneapolis and at that time G. Howell Arthur chairman of the finance committee arose and when asked why do you want such a heavy *per capita* tax when you have about \$19,000 in your treasury and said, "Well, we have adopted an endowment branch or beneficiary degree and we need something to help the infant along."

LEWIS F. PAGE.

Sworn to before me June 13th, 1903.

FRANK G. PRIMROSE,
*Commissioner, Commissioner of Deeds for the City of
New York, Residing in the Borough of Brooklyn.*

335 STATE OF NEW YORK, } ss :
County of Kings,

For answer to the first cross-interrogatory :

I voted on the question and voted against the adoption of the laws.

For answer to the second cross-interrogatory :

I could not state exactly how many were present when the vote was taken but from the position I was in, which was standing back of the last seat and the seats were raised, the further one was from the platform the higher one was ; I had a clear view and believe that there was between 120 and 130 present.

For answer to third cross-interrogatory :

I saw a number give the voting sign against the adoption of the laws, and it seemed to me by the show of hands that nearly as many voted against the adoption as voted for the adoption.

Some did not vote either way. I did not count the vote as the time was too short ; all the time it required to vote was to raise the hand then drop it.

For answer to fourth cross-interrogatory :

There was confusion and disorder as the vote was being taken and being announced, I did not hear what the national councilor said ;

many protested against the action but no attention was paid to the protests by the national councilor. Robert Carson of New Jersey got the floor and stated that the rank and file who furnished the revenue would not stand for such high handed proceedings. He was asked by some one "What are you going to do about it" Carson answered "In all probability shut off your revenue."

For answer to the fifth cross-interrogatory :

336 I do not know who or how many said so, but it was mentioned on the floor of the national council at the session where the laws were claimed to have been adopted that they were not adopted by two thirds vote of the members present.

For answer to the sixth cross-interrogatory :

I was sitting in the back of the hall when the vote was taken on the recommendations of the finance committee; and at that time one could hear distinctly all over the hall. Howell Arthur of the finance committee stated that we have adopted the endowment rank or beneficiary degree and need money to help the infant along, which is all that he said on that subject at this time.

LEWIS F. PAGE.

Sworn to before me June 13th, 1903.

FRANK G. PRIMROSE,

*Commissioner, Commissioner of Deeds for the City of
New York, Residing in the Borough of Brooklyn.*

STATE OF NEW YORK, }
County of Kings, } ss :

William S. McClure, a witness of lawful age, produced on behalf of the defendants being by me first duly sworn according to law, being examined on the following interrogatories to him propounded in that behalf, makes oath, deposes and says as follows, that is to say; (the counsel for the parties having first consented that the testimony taken under the said commission should be taken down stenographically and reduced to typewriting).

337 STATE OF NEW YORK, }
County of Kings, } ss :

For answer to the first direct-interrogatory :

My name is William S. McClure, I reside at No. 78 Fourth place, in the borough of Brooklyn, in the city of New York; my occupation is that of law clerk.

For answer to the second direct-interrogatory :

I was present at the meeting of the National Council of the Junior Order United American Mechanics held at Minneapolis, in the year 1899 as a delegate from the State of New York.

For answer to the third direct-interrogatory :

I was present on the occasion when, as set forth at page 116 of

the minutes of the said session "the committee arose and through its chairman reported a code of laws as a result of the committee of the whole;" I witnessed the voting and while I did not make an exact count of the vote, I am positive that the laws were not adopted by two-thirds vote of those present.

For answer to the fourth direct-interrogatory:

I was present when the *per capita* tax for the ensuing year was attempted to be fixed by the national council at its said meeting at Minneapolis, I heard G. Howell Arthur chairman of the finance committee make a recommendation to have the tax remain the same or fifteen cents; a delegate from Pennsylvania wanted it reduced to ten cents; Arthur said they needed the fifteen cents to help the new infant or beneficiary degree along.

WILLIAM S. McCLURE.

Sworn to before me June 13th, 1903.

FRANK G. PRIMROSE,
*Commissioner, Commissioner of Deeds for the City
of New York, Residing in the Borough of Brooklyn.*

338 STATE OF NEW YORK, }
County of Kings, } ss:

For answer to the first cross-interrogatory:

I voted on the question of the adoption of the code of laws referred to in direct interrogatory, numbered three, and I voted against the motion to adopt the said laws.

For answer to the second cross-interrogatory:

I do not know just how many members of the national council were present at the session at the time when said vote was taken. I sat in the second row of seats from the rear of the hall on the left hand side near the door. I had a good view and I would say about 125 members were there.

For answer to the third cross-interrogatory:

I saw members give the voting sign against the adoption of these laws. I don't know just how many I did not count them. Many did not vote at all. I am positive that those who did vote for the laws were not two thirds of the members present.

For answer to the fourth cross-interrogatory:

I cannot state the exact language used by the national councilor when he announced the result of the vote as there was much disorder at the time. There was a number of delegates who objected to adopting these laws claiming they had not been adopted by two thirds vote.

For answer to the fifth cross-interrogatory:

I heard several of the delegates at the time of the session in the convention hall at Minneapolis in 1899 claimed that they were positive that these laws were not adopted by two thirds vote of the delegates present.

339 For answer to the sixth cross-interrogatory :

I was in the rear of the hall near the door. I was not far from G. Howell Arthur; I distinctly heard what he said. What I have stated in answer to the fourth direct interrogatory is all that I heard him say or recollect that he said in reference to the insurance or beneficial degree, in connection with the amount of the *per capita* tax fixed.

WILLIAM S. McCLURE.

Sworn to before me June 13th, 1903.

FRANK G. PRIMROSE,
*Commissioner, Commissioner of Deeds for the City of
New York, Residing in the Borough of Brooklyn*

340

Stipulation.

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR
Order of United American Mechanics of
the United States of North America

versus

THE STATE COUNCIL OF THE DISTRICT OF
Columbia, Junior Order of United American
Mechanics, *et al.*

No. 21890. Equity.

It is hereby stipulated by and between the parties to the above entitled cause, by their solicitors, that a commission may issue to W. Justin Carter, Harrisburg, Pennsylvania, to take the deposition of C. N. Raymond, a witness called on behalf of the defendants, upon the interrogatories and cross-interrogatories hereto annexed, which depositions, when so taken, may be read at any hearing of the said cause, subject to all just legal objection to the competency and materiality thereof.

A. A. BIRNEY,
GEO. FRANCIS WILLIAMS,
A. W. SHUNK,

Solicitors for Complainant.

J. J. DARLINGTON,
Per S.,

Solicitor for Defendant.

341

Deposition of C. N. Raymond.

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Direct Interrogatories.

1. Please state your name, place of residence and occupation.
2. Were you present at the meeting of the National Council of the Junior Order United American Mechanics, held at Minneapolis, in the year 1899? If so, please state in what capacity you were so present.
3. State whether you were present on the occasion when, as set forth at page 116 of the minutes of the said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole;" and, if so present, please state such facts, if any, as are within your knowledge tending to show whether or not those laws were adopted by a two-thirds vote.
4. Were you present when the *per capita* tax for the ensuing year was fixed by the national council at its said meeting at Minneapolis? If so, state what, if anything, was said by G. Howell Arthur, chairman of the finance committee, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax.

342 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Cross Interrogatories.

NOTE.—It is understood that the third and fourth direct interrogatories are severally objected to by complainant as incompetent and immaterial, for reasons to be stated at the hearing or trial of this cause, and that then and there, complainant will move to strike out the answers to said two interrogatories.

X 1. Please state whether you voted on the question of the adoption of the code of laws referred to in direct interrogatory, numbered three; and if so whether you voted for or against the motion to adopt the said laws.

X 2. How many members of the national council were present in session at the time when said vote was taken; and by what method, or upon what information, do you base your conclusion that the number here stated by you was the number so present at that time?

X 3. Did you see any member, or members, of the national council give the voting sign against said motion to adopt said laws, and if so, how many? Did you count them at the time said vote was taken?

343 X 4. Please state the form, or language used by the national councilor, or presiding officer of the national council, when he announced the result of said vote, and please state whether or not there was any objection made by any member of the national council when the result of said vote was announced, on the ground that it had not been carried by the votes of two thirds of the members present.

X 5. When, where, and from or by whom did you first hear the point raised that the revised laws had not been legally adopted at the said Minneapolis session of the national council because the minutes do not show that two-thirds of the members present voted for the adoption thereof?

X 6. Were you present at the session of the national council at Asheville in 1894, when as shown in the printed proceedings of said session at page 100 the general laws and constitution of the national council (as revised) were adopted as a whole on motion of P. N. C., G. W. Elbert, and if so in what capacity were you so present?

X 7. Were you present, or if not present, do you know of any ses-

sion or meeting of the national council of the Junior Order of United American Mechanics held between the Asheville session of 1894 and the Minneapolis session of 1899, at which a general revision of the general laws of the order and of the constitution of the national council, or either of them, was made or adopted? If so please state the date and place when and where such session or meeting was held, and (if you can) refer us to the document or report in which the action taken was recorded or published.

344 X 8. How near to said G. Howell Arthur were you at the time that you say that he said what you attribute to him in your answer to the fourth direct interrogatory, could you hear distinctly what he said at the time, and is what you have stated in said answer all that he said (according to your best recollection) in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax, at the time referred to? If not, state as fully as you can what else he said at that time in relation to that matter.

CITY OF HARRISBURG, }
State of Pennsylvania. }

Depositions of C. N. Raymond, witness produced, sworn, and examined on the 16 day of June, A. D. 1903, at the office of W. Justin Carter, No. 17 South Second street, in the city of Harrisburg, county and State aforesaid, under and by virtue of the annexed commission, issued out of the supreme court of the District of Columbia and under the seal of said court, directed for the examination of a certain witness on behalf of defendant, in a certain cause depending in said court wherein The National Council of the Junior Order of United American Mechanics of the United States of America is plaintiff and The State Council of the District of Columbia, Junior Order of United American Mechanics, *et al.* is defendant-, of No. 21,890, equity.

CITY OF HARRISBURG, }
State of Pennsylvania. }

345 C. N. RAYMOND, being duly sworn and examined on the part of the defendant-, doth depose and say :—

1. In answer to the first interrogatory, the witness saith :—
 My name is C. N. Raymond, I reside in Harrisburg, Penna., my occupation is railway clerk.

2. In answer to the second interrogatory, the witness saith :—
 Yes, in the capacity of a past State councillor, being a member of the body.

3. In answer to the third interrogatory, the witness saith :—
 I was, and am positive that the motion to adopt did not receive a two-thirds vote. I was sitting on a rear elevated seat, in company with E. T. Keeton, of Virginia, Robert Carson, of New Jersey, and

others, and had an unobstructed view ; further more, it was spoken of between us, at the time, that the laws had not received a two-thirds vote. They voted by the usual show of the order and I could see from my place that two-thirds of the members did not vote for this motion.

4. In answer to the fourth interrogatory, the witness saith :—

I was, as near as I can recollect G. Howell Authur, chairman of the finance committee, said that it was necessary to levy such a high *per capita* tax, in order to provide revenue for the beneficiary degree. His remark being in reply to questions or objections stated by some of the members.

C. N. RAYMOND.

346 X 1. In answer to the first cross-interrogatory, the witness saith :—

I voted against the adoption of the code of laws referred to.

X 2. In answer to the second cross-interrogatory, the witness saith :—

I cannot give the exact number. My conclusion is based upon my observation coupled with those who immediately surrounded me, the general consensus of opinion being, at the time, that the laws did not receive a two-thirds vote.

X 3. In answer to the third cross-interrogatory, the witness saith :—

I saw a number of members vote against the motion to adopt, but as I did not count them, I cannot give the exact number.

X 4. In answer to the fourth cross-interrogatory, the witness saith :—

The vote was taken in the usual way, and the affirmative receiving the greatest number of votes, the chair merely announced that the motion is agreed to, and immediately passed on to other business, thereby preventing any objections as to whether or not the motion received a two-thirds vote.

X 5. In answer to the fifth cross-interrogatory, the witness saith :—

At the time. In Minneapolis. At the session. And from Messrs. Keeton, Carson and others.

X 6. In answer to the sixth cross-interrogatory, the witness saith :—

347 I was present at Asheville, in the capacity of a past State councillor, being a member of the body.

X 7. In answer to the seventh cross-interrogatory, the witness saith :

I was not present or do not know of any session or meeting of the national council, at which a general revision of the general laws of the order were made, between the dates specified.

X 8. In answer to the eighth cross-interrogatory, the witness saith :

I was within 50 ft. I could hear distinctly what he said, and what I have stated in answer to the fourth direct interrogatory is, in effect, the substance of his statement. I remember it distinctly, for the

reason that it conflicted materially with statements made by him and others concerning the \$5000.00 loan to the beneficiary degree.
C. N. RAYMOND.

348

Stipulation.

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

It is hereby stipulated by and between the parties to the above entitled cause, by their solicitors, that a commission may issue to George Berdine, New Brunswick, New Jersey, to take the deposition of Robert Carson, a witness called on behalf of the defendants, upon the interrogatories and cross-interrogatories hereto annexed, which depositions, when so taken, may be read at any hearing of the said cause, subject to all just legal objection to the competency and materiality thereof.

A. A. BIRNEY,
GEO. FRANCIS WILLIAMS,
A. W. SHUNK,
Solicitors for Complainants.
J. J. DARLINGTON,
Per S.,
Solicitor for Defendant.

349

Deposition of Robert Carson.

Filed June 5, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Direct Interrogatories.

1. Please state your name, place of residence and occupation.
2. Were you present at the meeting of the National Council of the

Junior Order United American Mechanics held at Minneapolis, in the year 1899? If so, please state in what capacity you were so present.

3. State whether you were present on the occasion when, as set forth at page 116 of the minutes of the said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole;" and, if so present, please state such facts, if any, as are within your knowledge tending to show whether or not those laws were adopted by a two-thirds vote.

4. Were you present when the *per capita* tax for the ensuing year was fixed by the national council at its said meeting at Minneapolis? If so, state what, if anything, was said by G. Howell Arthur, chairman of the finance committee, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax.

350 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United States Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Cross Interrogatories.

NOTE.—It is understood that the third and fourth direct interrogatories are severally objected to by complainant as incompetent and immaterial, for reasons to be stated at the hearing or trial of this cause, and that then and there, complainant will move to strike out the answers to said two interrogatories.

X 1. Please state whether you voted on the question of the adoption of the code of laws referred to in direct interrogatory, numbered three; and if so whether you voted for or against the motion to adopt the said laws.

X 2. How many members of the national council were present in session at the time when said vote was taken; and by what method, or upon what information, do you base your conclusion that the number here stated by you was the number so present at that time?

X 3. Did you see any member, or members, of the national council give the voting sign against said motion to adopt said laws, and if so, how many? Did you count them at the time said vote was taken?

351 X 4. Please state the form, or language used by the national councilor, or presiding officer of the national council, when he announced the result of said vote, and please state

whether or not there was any objection made by any member of the national council when the result of said vote was announced, on the ground that it had not been carried by the votes of two-thirds of the members present.

X 5. When, where, and from or by whom did you first hear the point raised that the revised laws had not been legally adopted at the said Minneapolis session of the national council because the minutes do not show that two-thirds of the members present voted for the adoption thereof?

X 6. Were you present at the session of the national council at Louisville in 1898 when, as shown in the printed proceedings of said session at page 113, "P. S. C. Collins, of Pennsylvania moved to refer the general laws, constitution of the national council and of subordinate councils under the jurisdiction of the national council to the incoming law committee, for general revision, which was agreed to," and if so in what capacity were you so present?

X 7. Were W. H. R. Martin, Thomas S. Sergeant, C. O. Bohrer, J. W. Milstead, Henry F. Steele, and Thomas P. Moore, members of the national council from the District of Columbia, or any of them present on the occasion referred to in the foregoing interrogatories at said Louisville session or convention? If not, were they or any of them present at any other time at said Louisville session or convention?

352 X 8. Were you present at the session of the national council at Detroit in 1893 when, as shown in the printed proceedings of said session at pages 131-133, the laws under consideration (meaning the general laws and constitution of the national council) were referred to the incoming law committee to be reported etc., at the next session, and if so in what capacity were you so present?

X 9. Were you present at the session of the national council at Asheville in 1894, when, as shown in the printed proceedings of said session at page 100 the general laws and constitution of the national council (as revised) were adopted as a whole on motion of P. N. C., G. W. Elbert, and if so in what capacity were you so present?

X 10. Were you present, or, if not present, do you know of any session or meeting of the National Council of the Junior Order of United American Mechanics held between the Asheville session of 1894 and the Minneapolis session of 1899, at which a general revision of the general laws of the order and of the constitution of the national council, or either of them, was made or adopted? If so please state the date and place when and where such session or meeting was held, and (if you can) refer us to the document or report in which the action taken was recorded or published.

X 11. How near to said G. Howell Arthur were you at the time that you say that he said what you attribute to him in your answer to the fourth direct interrogatory, could you hear distinctly what he said at the time, and is what you have stated in said answer all that he said (according to your best recollection) in reference to the in-

insurance branch or beneficiary degree in connection with the amount of the *per capita* tax, at the time referred to? If not, state as fully as you can what else he said at that time in relation to that matter?

353 To the first interrogatory he says:

Robert Carson, New Brunswick, N. J., U. S. collector of customs, port of Perth Amboy.

To the second interrogatory he says:

Yes, as a past State councilor from New Jersey and member of the national council.

To the third interrogatory he says:

I was present on the occasion as set forth on page 116, minutes of national council, session of 1899, when the committee arose and through its chairman reported a code of laws. P. S. C. Collins of Pennsylvania made a motion that the report be accepted and laws adopted. The vote was taken by the usual show of the order. The motion was not carried by a two-thirds vote of the members present. A number voted against the motion and a large number did not vote either way. I carefully observed the vote because I was very anxious as to the result. I did not hesitate to express myself to the members of the body that the laws were not adopted as they did not receive the necessary two third vote as required by the laws of the order to adopt same. I secured the floor, and made a protest at the high handed manner in which the business was being conducted; that the rank and file would not stand for it, and some gentleman in the gathering says, "What are you going to do about it?" I said: "In all probability shut off your revenue:

To the fourth interrogatory he says:

Yes objections were made to the recommendation of the finance committee making a *per capita* tax for general purposes of fifteen cents, and its amendment was offered to strike out fifteen and insert ten cents. The amendment was lost. In the discussion

354 in favor of and against the fifteen cents by members of the body, it was stated by G. Howell Arthur that it was necessary to make the tax fifteen cents for the reason that having organized the insurance branch or beneficiary degree, it would need assistance, or words to that effect.

To the first cross interrogatory he says:

Yes, voted against the adoption of the laws and protested as to the manner of procedure.

To the second cross interrogatory he says:

Yes, there was about one hundred and forty members present. I base my conclusions as to the number present from yea and nay vote, taken after the vote on laws, there being one hundred and thirty nine votes recorded.

To the third cross interrogatory he says:

Yes, I saw a number of members vote against the adoption of the laws. In my judgment there was about thirty five to forty votes against the laws, a number of members being disgusted with the

manner of conducting the business did not vote either way. I did not count the vote.

To the fourth cross interrogatory he says :

I cannot give you the exact language. The usual custom being for the presiding officer to say, "Motion adopted or carried." I do not remember of objections being made by any member of the body when the vote was announced on the grounds that it was not adopted by two-third vote of the members present. It was a general talk among the members of the body that the laws did not receive the necessary two-third vote and that *that* they were not legally adopted.

To the fifth cross interrogatory he says :

355 I raised the question at the session that the laws were not legally adopted as they did not receive two-third vote of the members present.

To the sixth cross interrogatory he says :

I was present at the session of the national council held at Louisville in 1898, as a past councilor from New Jersey and member of the national council.

To the seventh cross interrogatory he says :

I cannot say whether the parties named in interrogatory No. 7 were present when the motion was made or not. From the records of the national council they were present at roll-call and answered to their names.

To the eighth cross interrogatory he says :

Yes as past State councilor from New Jersey and a member of the national council.

To the ninth cross interrogatory he says :

Yes as a past State councilor from New Jersey and a member of the national council.

To the tenth cross interrogatory he says :

I have no recollection of general revision of laws between 1894 and 1899, but the laws were amended at the session of the national council in 1895, 1896, 1897, and 1898, see official minutes.

To the eleventh cross interrogatory he says :

I was within forty feet from Mr. Arthur and could hear him distinctly.

ROBERT CARSON.

Sworn to and subscribed before me this eighth day of August, A. D., 1903.

GEORGE BERDINE,

*Master in Chancery of New Jersey and Also a
Commissioner of the New Jersey Supreme Court.*

356

Stipulation.

Filed June 25, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

It is hereby stipulated by and between the parties to the above entitled cause, by their solicitors, that a commission may issue to Frederick Parker, Long Branch, New Jersey, to take the deposition of P. Hall Packer, witness called on behalf of the defendants, upon the interrogatories and cross interrogatories hereto annexed, which depositions, when so taken, may be read at any hearing of the said cause, subject to all just legal objection to the competency and materiality thereof.

A. A. BIRNEY,
GEO. FRANCIS WILLIAMS,
A. W. SHUNK,
Solicitors for Complainant.

J. J. DARLINGTON,
Per S.,
Solicitor for Defendant.

357

Deposition of P. Hall Packer.

Filed June 25, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Direct Interrogatories.

1. Please state your name, place of residence and occupation.
2. Were you present at the meeting of the National Council of the

Junior Order United American Mechanics, held at Minneapolis, in the year 1899? If so, please state in what capacity you were so present.

3. State whether you were present on the occasion when, as set forth at page 116 of the minutes of the said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole;" and, if so present, please state such facts, if any, as are within your knowledge tending to show whether or not those laws were adopted by a two-thirds vote.

4. Were you present when the *per capita* tax for the ensuing year was fixed by the national council at its said meeting at Minneapolis? If so, state what, if anything, was said by G. Howell Arthur, chairman of the finance committee, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax.

358 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	}	No. 21890. Equity.
<i>versus</i>		
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}	

Cross Interrogatories.

NOTE.—It is understood that the third and fourth direct interrogatories are severally objected to by complainant as incompetent and immaterial, for reasons to be stated at the hearing or trial of this cause, and that then and there, complainant will move to strike out the answers to said two interrogatories.

X 1. Please state whether you voted on the question of the adoption of the code of laws referred to in direct interrogatory, numbered three; and if so whether you voted for or against the motion to adopt the said laws.

X 2. How many members of the national council were present in session at the time when said vote was taken; and by what method, or upon what information, do you base your conclusion that the number here stated by you was the number so present at that time?

X 3. Did you see any member, or members, of the national council give the voting sign against said motion to adopt said laws, and if so, how many. Did you count them at the time said vote was taken?

X 4. Please state the form, or language used by the national councilor, or presiding officer of the national council, when
359 he announced the result of said vote, and please state whether or not there was any objection made by any member of the

national council when the result of said vote was announced, on the ground that it had not been carried by the votes of two-thirds of the members present.

X 5. When, where, and from or by whom did you first hear the point raised that the revised laws had not been legally adopted at the said Minneapolis session of the national council because the minutes do not show that two-thirds of the members present voted for the adoption thereof?

X 6. How near to said G. Howell Arthur were you at the time that you say that he said what you attribute to him in your answer to the fourth direct interrogatory, could you hear distinctly what he said at the time, and is what you have stated in said answer all that he said (according to your best recollection) in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax, at the time referred to? If not, state as fully as you can what else he said at that time in relation to that matter.

First direct interrogatory. Please state your name, place of residence and occupation. *Answer.* My name is P. Hall Packer. My residence is Seabright, New Jersey. My occupation is dealer in real estate, editor and manager.

Second direct interrogatory. Were you present at the meeting of the National Council of the Junior Order United American Mechanics, held at Minneapolis, in the year 1899? If so, please state in what capacity you were so present. *Answer.* I was present at Minneapolis at the meeting of the National Council of the Junior Order of United American Mechanics in the year 1899, as past State councillor and member of the national council.

Third direct interrogatory. State whether you were present on the occasion when, as set forth at page 116 of the minutes of the said session, "the committee arose and through its chairman reported a code of laws as the result of the committee of the whole;" and, if so present, please state such facts, if any, as are within your knowledge tending to show whether or not those laws were adopted by a two-thirds vote. *Answer.* I was present on that occasion. I sat in the rear seat which was the highest seat in the auditorium and where I could see over the entire audience when the vote was taken. I cast my eye over the audience as they held up their hands and it looked to me like a vote of, say 50 to 60. They were not adopted by a two-thirds vote. I am positive of that, as I am accustomed to presiding over conventions and observing quickly the standing of the vote. I arose with others and protested against the declaration of the chairman and cried "Shame!" "Shame!" but the chairman refused to recognize us and declared the laws adopted.

Fourth direct interrogatory. Were you present when the *per capita* tax for the ensuing year was fixed by the national council at its said meeting at Minneapolis? If so, state what, if anything, was said by G. Howell Arthur, chairman of the finance committee, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax. *Answer.*

I was present and when G. Howell Arthur, chairman of the finance committee, said, that ten (10) cents was not enough and he begged the national council to make it 15 or 17 cents, as the national council was just taking on its hands the infant, insurance branch, which required money to nurse. He pleaded with the delegates to assist this insurance branch and urged the national council to make the *per capita* tax 15 or 17 cents, in order to strengthen the new beneficiary degree as it would require considerable money until it got on its feet.

First cross interrogatory. Please state whether you voted on the question of the adoption of the code of laws referred to in direct interrogatory, numbered three; and if so, whether you voted for or against the motion to adopt the said laws. *Answer.* I voted on the question. I voted against the adoption of the said laws.

Second cross interrogatory. How many members of the national council were present in session at the time when said vote was taken; and by what method, or upon what information, do you base your conclusion that the number here stated by you was the number so present at that time? *Answer.* In my best judgment there were probably 150 members present. Thirty (30) that did not vote at all. I base this estimation upon the votes that had been taken previous.

362 *Third cross interrogatory.* Did you see any member or members, of the national council give the voting sign against said motion to adopt said laws, and if so, how many? Did you count them at the time said vote was taken? *Answer.* Yes, I saw over fifty (50) give the vote sign against the said motion to adopt the said laws, as I cast my eye over them and counted them hurriedly. I counted them at the time the vote was taken.

Fourth cross interrogatory. Please state the form or language used by the national councilor, or presiding officer of the national council, when he announced the result of said vote, and please state whether or not there was any objection made by any member of the national council when the result of said vote was announced, on the ground that it had not been carried by the votes of two-thirds of the members present. *Answer.* There was such a noise at the time, and shouts of "Shame, Shame" and a call for the yeas and nays, which yea and nay vote was denied the members, and protests by the Jersey delegation against the announcement of their adoption, that I could not hear just the language used by the presiding officer.

Fifth cross interrogatory. When, where, and from or by whom did you first hear the point raised that the revised laws had not been legally adopted at the said Minneapolis session of the national council because the minutes do not show that two-thirds of the members present voted for the adoption thereof? *Answer.* At the time of their supposed adoption at Minneapolis, and have heard of the same numbers of times since by members who were present at the session.

363 *Sixth cross interrogatory.* How near to said G. Howell Arthur were you at the time that you say that he said what you attribute to him in your answer to the fourth direct interrogatory; could you hear distinctly what he said at the time, and is what you have stated in said answer all that he said (according to your best recollection) in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax, at the time referred to? If not, state as fully as you can what else he said at that time in relation to that matter. *Answer.* I was probably thirty (30) or forty (40) feet from G. Howell Arthur when he made the statement relative to the insurance degree and *per capita* tax. I could hear him distinctly.

What I have stated in my answer to the fourth direct interrogatory, in reference to the insurance branch or beneficiary degree in connection with the amount of the *per capita* tax at the time referred to is according to my best recollection, all that he said on that subject.

P. HALL PACKER.

364 *Additional Stipulation.*

Filed October 26, 1903.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America	} No. 21890. In Equity.
<i>versus</i>	
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United Amer- ican Mechanics, <i>et al.</i>	

It is hereby stipulated and agreed, by and between the parties to this cause, by their respective solicitors, that the allegations, recitals and statements contained in the following paragraphs numbered from one to fourteen respectively, are facts, and that the same, together with the exhibits referred to in said paragraphs 1 to 14 and to be filed herewith, shall be treated as, and deemed to be in evidence on behalf of complainant, namely:

Acts and proceedings culminating in the revocation by the National Council, Junior Order of United American Mechanics, of the charter of the State council of the District of Columbia of said order, granted by said national council.

1. The State Council of the District of Columbia, Junior Order of United American Mechanics, did, at a regular semi-annual session held at Washington, D. C., on August 14 and 15, 1899, after reciting certain alleged grievances, adopt resolutions which are printed on

pages 26 to 28 of the printed proceedings of said session of said State council.

365 2. This action of the said State council was brought to the attention of the national Council by a letter, inclosing said resolutions from Wm. L. Boyden, State council secretary, to Edward S. Deemer, national secretary, dated August 21, 1899, published in the printed proceedings of the said State council for 1900 at page 55.

3. Certain charges were preferred against the State council of the District of Columbia, the same being the petition, addressed to the national judiciary, printed on page 47 of the printed proceedings of said State council for 1900.

4. Pending the trial of said charges, the national councilor declared the charter of said State council suspended. A copy of the official proclamation announcing the action of the national councilor is herewith, marked Exhibit AA. The national councilor reported his actions and proceedings, including those referred to above, to the national council. (See page 27 of the printed proceedings of the national council at the Philadelphia session of 1900.) The action of the national council on said report appears on pages 23 and 24 of the printed proceedings of said session, as follows:

"The national secretary then proceeded to read the report of the national councilor, when National Representative S. H. Smith, of Connecticut, moved that so much be considered the reading, and it be approved down to recommendations, which was agreed to."

national councilor, when National Representative S. H. Smith, of Connecticut, moved that so much be considered the reading, and it be approved down to recommendations, which was agreed to."

5. Copy of the rule of the national judiciary requiring the defendant State Council to plead to the aforesaid petition is herewith, marked Exhibit BB.

366 6. The defendant State Council filed answer to said original petition October 20, 1899. Said answer is printed on pages 48 to 52 of the printed proceedings of said State council for 1900.

7. Certified extract from entries on docket of the national judiciary relating to said case is herewith, marked Exhibit CC.

8. Certified extract from journal of the national judiciary relating to said case is herewith, marked Exhibit DD.

9. Mr. Wilkin, counsel for plaintiff, asked permission on behalf of the national council to file a supplementary petition, which was granted. Said supplementary petition is printed on pages 53 to 55 of the printed proceedings of said State council for 1900.

10. The defendants' answer to said supplementary petition is printed on pages 56 to 59 of the printed proceedings of said State council for 1900.

11. The matter at issue having been presented by both parties, and arguments thereon having been had, the matter was taken under advisement by the supreme judiciary, and thereafter, on, to-wit, the 23rd day of November, 1899, decision was rendered in the said matter. Said decision is printed in the report of the national judiciary, on pages 80 to 84 of the printed proceedings of the Philadelphia session of the national council, 1900.

12. On January 27, 1900, final decree of the supreme judiciary in the case was entered. Said final decree is printed in the report of the national judiciary, on pages 84 and 85 of said printed proceedings of the Philadelphia session of the said national council.

13. The report of the national judiciary, presented to the national council at the Philadelphia session, contained its decisions and decrees herein referred to; and on presentation of said report to the national council, the following action was taken thereon, as appears on page 69 of the printed proceedings of said session, viz:

"The national secretary then proceeded to read the report of the national judiciary, when Past State Councilor J. A. Tarpley, of Tennessee, moved that so much be considered the reading, and it be approved as printed, which was agreed to."

14. A memorandum of books, papers, moneys, effects, and other properties belonging to, or in the possession of the State Council of the District of Columbia, Junior Order of United American Mechanics at the date of the alleged revocation of its charter, is herewith, marked Exhibit EE.

15. The defendants, however, in stipulating to the introduction of the foregoing matters of record in evidence in this cause, do not in anywise waive any of the allegations of their answers, or admit the right, power, or authority of the national councillor, or national judiciary to take any of the actions and proceedings herein set forth, nor do they admit or concede the truth of the facts contained in the communications, report and proclamation of the national councilor, nor the truth of the statements of facts and correctness of the conclusions of law contained in the decisions, orders and decrees of the national judiciary herein referred to.

Dated this second day of April, 1903.

A. A. BIRNEY,
GEO. FRANCIS WILLIAMS,
A. W. SHUNK,
Solicitors for Complainants.
J. J. DARLINGTON,
Solicitor for Defendants.

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EXHIBIT A. A.

Filed October 26, 1903.

National Council, Junior Order United American Mechanics,
Office of the National Secretary.

PHILADELPHIA, PA., *September 14th, 1899.*

To whom it may concern:

Your attention is called to the following,

"As a result of the action of the State council of the District of Columbia adopting certain recommendations of its secretary, Wm. L.

Boyden, at its session held in the city of Washington on the 14th day of August 1899, I have preferred charges of insubordination, rebellion, etc., against the said State council of the District, before the national judiciary, and pending the trial of said charges, I hereby declare the charter of the said State council suspended.

You will give notice of the above action to the said State council, and to all subordinate councils in the District of Columbia, and after having done so, cease to hold further communication with the said State council."

By order of the national councillor.

Attest:

[SEAL.]

EDWARD S. DEEMER, *N. Sec'ry.*

370

EXHIBIT B. B.

Filed October 26, 1903.

National Judiciary, Jr. O. U. A. M.

In the Matter of THE NATIONAL COUNCIL, JR. O. U. A. M., by CHAS. }
Reimer, National Councilor, }
vs. }
THE STATE COUNCIL OF THE DISTRICT OF COLUMBIA. }

W. L. Boyden, S. S. sec'y, Washington, D. C.:

You will take notice that a petition charging the State Council of the District of Columbia, Jr. O. U. A. M. with insubordination, rebellion, inciting rebellion, attempting to disrupt and destroy the order, and violation of obligation and laws of the order, was filed in this office on September 23d, 1899; that proof of service of same upon you was filed on September 29, 1899, wherefore:—

It is by the national judiciary ordered

That the defendant is hereby given until the 20th day of October 1899 within which time to file with this court an answer thereto. A copy of the same, under the law to be served upon the plaintiff within ten days after the filing of the original.

[SEAL.]

GEO. S. LOUNSBURY,
Recorder National Judiciary.

Denver, Colorado, Sept. 30, 1899.

371

EXHIBIT C. C.

Filed October 26, 1903.

Docket Entries.

THE NATIONAL COUNCIL, by CHAS. REIMER, N. C.,
vs.
THE STATE COUNCIL OF THE DISTRICT OF COLUMBIA. } Case No. 6.

Complaint filed September 23, 1899.

Answer filed October 20, 1899.

Set for hearing Nov. 20, 1899.

Hearing had Nov. 20, 1899.

Supplemental petition filed by plaintiff November 18, 1899.

Decision by the court November 23, 1899.

Final decree by the court January 27, 1900.

I, Geo. F. Lounsbury, recorder of the national judiciary, hereby certify that the above and foregoing is a true copy of the entries regarding the above entitled case as they appear of record in the docket of the national judiciary, Jr. O. U. A. M.

Witness my hand and the seal of the national judiciary this 5 day of May, 1902.

[SEAL.]

GEO. F. LOUNSBURY, *Recorder.*

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EXHIBIT D. D.

Filed October 26, 1903.

Journal.

Pursuant to the authorization of the national board of officers, due notice of such sitting having been given, the national judiciary convened in Washington, D. C., on November 20, 1899, at 10 o'clock a. m.

Present: Chief Supreme Judge H. H. Eddy, Supreme Judge H. S. Barry, Supreme Judge W. L. S. Gilcreast.

Case No. 6, "The National Council by Chas. Reimer national councilor vs. The State Council of the District of Columbia came on to be heard.

A. D. Wilkin, Esq., of Harrisburg, Pa., appearing for the plaintiff.

C. M. Bigelow, Esq., of Washington, D. C., appearing for the defendant.

The matter at issue having been duly presented by both parties and arguments thereon having been had the matter was taken under advisement by the court, and thereafter, on to-wit the 23d day of November 1899 decision was rendered in the said matter.

On January 27, 1900 final decree was entered.

I, Geo. F. Lounsbury, recorder of the national judiciary, do hereby certify that the above and foregoing is a true and correct copy of the entries regarding the above case, as the same appear of record in the journal of the national judiciary.

Witness my hand and the seal of the national judiciary this 5th day of May, 1902.

[SEAL.]

GEO. F. LOUNSBURY, *Recorder.*

373-377

EXHIBIT E. E.

Filed October 26, 1903.

Books, Papers, Moneys, Effects, and Other Properties Belonging to or in the Possession of the State Council of the District of Columbia, Junior Order of United American Mechanics.

Charter or warrant from national council.

Seal of the State council.

Minute book.

Cash book.

Order book.

Roll book.

Return book.

Set of rituals of the secret work.

Funeral rituals.

Form of public installation.

Supply of question books, ode cards, withdrawal and dismissal cards for issue to subordinate councils.

Property and records of defunct subordinate councils under the jurisdiction of the State council (quantity and character unknown).

Officers' emblems and regalia.

Moneys. The report of the treasurer of the State council, dated August 14, 1899, printed in proceedings of the State council for 1899 at page 30, shows the following: "Balance in bank August 1, 1899, \$184.69."

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378 Supreme Court of the District of Columbia.

MONDAY, *May 2d*, 1904.

The court resumes its session pursuant to adjournment, Mr. Justice Gould, presiding.

* * * * *

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of America	} In Equity. No. 21890, Docket 49.
<i>vs.</i>	
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United American Mechanics, <i>et al.</i>	}

The above-entitled cause having been duly calendared for final hearing prior to the October term of 1903, and having been continued by the court of its own motion at succeeding terms of court, because each of the justices holding special terms of the court in equity was formerly connected with the said Junior Order of United American Mechanics, it is, this 2d day of May, A. D. 1904 on motion of the complainant, by A. A. Birney and George Francis Williams, Esquires, its solicitors, the defendants by J. J. Darlington, Esquire, their solicitor, consenting, ordered that said cause be, and it is hereby assigned for hearing and trial to the Honorable Daniel Thew Wright, one of the justices of this court, who has consented to try the said cause.

ASHLEY M. GOULD, *Justice.*

379 *Notice of Death of C. M. Bigelow.*

Filed October 18, 1904.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL, J. O. U. A. M.,	} No. 21890. Equity.
<i>vs.</i>	
STATE COUNCIL OF THE DISTRICT OF Co- lumbia <i>et al.</i>	}

It being suggested to the court that Clifton M. Bigelow one of the defendants to the original bill has died since issue joined herein, it is this 18th day of October, 1904, ordered that the cause proceed as if said Bigelow had not been made a party.

By the court:

WRIGHT, *Justice.*

Filed October 19, 1904.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JUNIOR Order of United American Mechanics of the United States of North America, a Body Corporate, <i>et al.</i>	} Equity. No. 21890.
<i>vs.</i>	
THE STATE COUNCIL OF THE DISTRICT OF Columbia, Junior Order of United Ameri- can Mechanics, a Body Corporate, <i>et al.</i>	

It is hereby agreed, for the purpose of the argument of the above case, that the following issues are presented.

1. The complainant alleges, and the defendant denies, that the alterations in the constitution and general laws of the order, made at the Minneapolis convention in 1899, were validly made.

The provisions of the constitution up to the date of the said meeting were the following:

SEC. 1. This constitution, article XXV, or the general laws of the order, shall not be altered or amended oftener than once in five years, unless by a two-thirds vote of the members present at a regular session of this national council, or a special session called for the purpose; provided all alterations or amendments shall be in writing, signed by two or more members of the national council, and
381 shall be referred to the committee on law, before final action is taken thereon.

SEC. 2. All proposed alterations or amendments shall be examined by the committee on laws and reported to the national council at its next session, together with such further amendments and recommendations as may be deemed necessary to preserve the consistency and sense of this constitution and the general laws; provided that when the national council refers the general laws or constitution of the national council to a committee for revision, said reference shall be sufficient notice of any proposed alteration or amendment.

SEC. 3. The action and recommendations of the committee shall be published at least thirty days prior to the next session of the national council, when final action may be taken."

(a.) The complainant claims that, under the proviso of section 2, changes could be effected in the general laws or constitution whenever the same were referred to a committee for revision, at one convention, upon the report of said committee to the next regular convention, at that same convention, while the defendant claims that the committee on revision could not thus report fundamental changes in the general laws or constitution, to be acted upon by the

convention at the same meeting, except with respect to alterations or amendments proposed at the time of the reference for revision.

(b.) At the Louisville convention of 1898, the general laws and constitution of the national council, and all subordinate councils, were referred to the law committee for "a general revision."

382 There being no alterations or amendments then pending which required any changes in the objects of the order, or in the laws in reference to its regalia, amendments were adopted relating to membership in the board of officers, appeals from subordinate councils to State councils, and providing for filling the vacancies in the office of State council, through death or other causes, and other amendments which were under consideration were postponed until the coming in of the report of the law committee on general revision. Further, an amendment being offered, it was voted as follows, namely, "That in consideration of the national council having referred the laws to the incoming law committee for general revision, that all further amendments be laid over." The amendments unacted upon because of the foregoing resolution related to the following matters, namely:

The reinstatement of suspended members, and the payment of dues by non-beneficial members; the use of the name, title, motto or initials of the order; with regard to membership of committees; libelling members of councils; endorsing political candidates or parties; prohibiting bringing liquors into the council rooms, and use by members of official names in private business enterprises.

Among the changes from the former constitution in that recommended by the law committee were the following:

1. The creation of a national judiciary, with the powers set forth in article 9 of said report, Complainant's Exhibit Y, page 16 *et seq.*

2. Changing the first object of the order from, "to maintain and promote the interest of Americans and shield them from the depressing effects of foreign competition" to "maintain and promote the interest of Americans and shield them from the depressing effects of unrestricted immigration."

3. Changing the fourth object of the order from "to establish a sick and funeral fund," to "establish an insurance branch, and a sick and funeral fund."

4. Authority to the national council, by law, to provide for the insurance of the members of the order.

5. Authority to the national council to provide for the affiliation with the order of a uniform rank.

6. The annulling of all constitutions, laws and decisions of the national council, etc., except as specifically provided in the proposed new constitution.

7. Submitting future amendment or amendments to vote of the several State councils, instead of submitting changes in the objects of the order to a vote of the members of the order.

8. Changes in the ratio of representation of the State councils in the national council.

The proposed new "national laws" differed from the former general laws in the matter of regalia and in other particulars.

It is agreed that the changes in the objects of the order were not submitted to the membership as required by the old constitution, but the validity of their adoption depends upon whether or not the convention could adopt them without submission to the members

of the order, either because of the fact that they were recom-
 384 mended by the law committee in their report under the reference to them for general revision above noted, or because the new constitution assumes to abrogate all pre-existing constitutions and laws, which include the constitutional provision for submitting proposed changes in the objects of the order to the membership.

It is further agreed that the proposed new constitution and general laws were adopted, if legally adopted at all, on the afternoon of the 22nd day of June, 1899.

(See page 116, Proceedings of 1899.)

The defendant claims that the adoption of the said constitution and general laws was, by less than a two-thirds vote, and that the ayes and nays were called for in connection with the proceedings to adopt the same, as provided by the constitution, and were denied by the presiding officer, who was sustained in his ruling by the convention. (See complainant's testimony, page 30, *et seq.*, and defendant's depositions. See also stipulation of March 25, 1902, page 7, as to provision of constitution relative to call for ayes and nays, and see same stipulation, pages 31 to 35, for action of national council with reference to the alleged adoption of the constitution and general laws.)

The complainant denies that the ayes and nays were called for upon the adoption of the constitution and laws.

In reply, the complainant maintains that, as the record shows, the constitution and laws were agreed to, and that the inference arises that they were agreed to by such vote as was required by law,

whether the same be a two-thirds vote, or a mere majority
 385 vote. They also call attention to the provision of the constitution relative to amendments stating that the constitution and general laws may not be amended oftener than once in five years, except by a two-thirds vote, and argue that the year 1899 was a five year period, five years having elapsed since the adoption of the constitution and laws in 1894.

It is further agreed that the report of the committee on endowment rank, which committee was appointed at the Louisville convention to investigate a suitable plan of endowment rank for this order, said rank to be optional with the members, and that they report the same to this body at its meeting in 1899, was adopted on the 21st day of June, 1899, which report conferred on the national council the power to create and establish a beneficiary degree, to issue certificates of membership in the said degree to members of the

order, to their wives, and to members of a duly recognized auxiliary of the order, paying benefits in the sums of \$500, \$1,000, \$2,000, or \$3,000, creating a board of control, and making it the duty of the financial secretary of each subordinate council of the order to receive applications for membership in the beneficiary degree, to forward the same to the board, to collect all fees or assessments due thereunder, and to perform such other duties as may be required by the laws of the beneficiary degree, or the rules of the board, conferring on the board the control of the said beneficiary degree, and all the rights and privileges or regular members of the council, providing that the seal of the beneficiary degree should contain the

386 emblems of the order, namely, the square and compasses, arm and hammer, encircled by a shield, surrounded by the words "board of control, beneficiary degree, Jr. O. U. A. M.," and, on the last day of the said Minneapolis convention, it authorized and directed a loan to the beneficiary degree not exceeding \$5000, to be appropriated for the use of the board of control of the beneficiary degree, the same being the money of the national council; a return of the money to be made within one year from said date, but unaccompanied by any provisions for securing such a return.

At the Philadelphia convention, held in 1900, the further provision was made that the board of control might appoint a collector, elected by the certificate holders, to perform the duties which, at Minneapolis, it is provided should be performed by the financial secretary of each subordinate council. (See Philadelphia proceedings, page 277.)

The defendants claim that the beneficiary provisions are not connected in any way with provision for a sick or funeral fund. The aforesaid report of the committee on endowment rank was not published prior to the said Minneapolis convention, and the said insurance branch, claimed by the complainant to have been adopted by the national council as before set forth, has never been submitted to or approved by a majority vote of the members of the order, which the defendants contend are required as a prerequisite to its validity by section 2, article 2 of the old national council's constitution.

Pages 9 to 16 of the above mentioned stipulation of March 25, 1902, set forth the history, so far as known, of all attempted changes in regalia and objects of the order prior to the convention of 1899.

387 It is agreed that at the Minneapolis convention there was a balance in the treasurer's hands of \$19,953.34.

It is agreed that the income from the sale of charters and supplies was between \$5,000 and \$6,000 during the year prior to the said Minneapolis convention; that the total estimated expenses for the year following said convention were \$28,000, and that the membership reported at said convention was 183,000, and that the total number of orphans reported to said convention were 84.

It is further agreed that in August, 1899, the defendant's council adopted the resolutions set forth in Defendant's Exhibit B.

It is further agreed that the membership of the order in the State councils of New York, New Jersey, Pennsylvania, Virginia, and the District of Columbia comprised fully two-thirds of the membership of the entire order at the date of the Minneapolis convention.

It is further agreed that Charles Reimer, national councillor elected by the Minneapolis convention, preferred charges on or about September 14, 1899, against the defendant State council, before the national judiciary to the effect that, by its resolutions of August 14, 1899, a copy of which is filed as Exhibit A to the defendant's answer, the defendant was guilty of insubordination, rebellion, inciting rebellion, attempting to disrupt and destroy the order, and a violation of obligations and laws of the order, and that the said Reimer, on the said 14th day of September, A. D. 1899, declared "the charter of the said State council suspended, as a result of the action
388 of said State council at its session of August 14th, 1899."
(See Exhibit B to defendant's answer.)

The defendant's answer before the national judiciary, among other things, denied that there was any power in the national judiciary to revoke or suspend its charter, or to try it for the offenses charged; that its charter contract with the council prohibited alterations in the objects of the order, except by a majority vote of the members, after submission to them, under the faith of which contract guaranty it had paid its *per capita* tax to the national council since its organization; that this and other features of the constitution and general laws had been assumed to be changed by the Minneapolis convention in departure from law as set out above; that the defendant council had faithfully complied with all its obligations to the national council; that it stood ready to pay its *per capita* tax to the national council when relieved by it of the injuries complained of, and other matters set out more fully at pages 48 to 52 of the official proceedings of the defendant council for the year 1900, which it is agreed shall be considered in evidence, and this day is filed for said purpose.

A supplemental petition by the national councillor setting forth his charges and the answer of the defendant council to the said supplementary petition were filed and are set forth at pages 52 to 58 of the State council proceedings for the year 1900. At pages 59 and 60 of said State council proceedings is set forth, the decision rendered on November 23, 1899, by the national judiciary to the effect
389 that the suspension of the charter having expired by its terms, the relations of defendant council to the national council were restored, and that it was ordered that the proper officers of the State council should pay to the national council on or before January 15, 1900, the amount of the *per capita* tax due said national council on October 15th, and that in the event of their failure so to do the charter of the defendant council should be revoked.

On January 27th, 1900, the national judiciary, without further notice to the defendant council, passed the decree set out at pages 61 and 62 of the State council proceedings for 1900, to the effect that,

it appearing by a certificate of National Secretary Deemer that the defendant State council had not paid the said *per capita* tax, its charter was revoked, and its officers directed to deliver to the national secretary the charter rituals, books, papers, moneys, property and effects of every description belonging to the said State council. Thereupon the said Reimer, on February 2, 1900, proclaimed the defendant's charter revoked, and so reported to the Philadelphia convention of 1900, and the national judiciary also reported to said convention its said proceedings and actions, which were approved by said convention.

The defendant claims that even under the Minneapolis constitution the said action of the national councillor and the national judiciary was invalid, for the reasons set out at pages 23 to 25 of its answer in this case.

The complainant, on the contrary, contends that by force of division 3, chapter 3, section 2, of the national laws adopted at Minneapolis, the failure of the State council to abide by and
 390 perform the decree *ipso facto* revoked its charter, and it became the duty of the national council forthwith to proclaim the same. (Minneapolis proceedings, appendix page 50.)

The complainant also refers to article 7, section 13, sub-section 11, of the national constitution adopted at Minneapolis, (appendix, page 11) as follows: "The following powers are reserved to the national council, namely * * * to grant charters to State councils, and to provide by law for the issue, revocation, suspension, restoration, and reissue of such charters." And, further, to the provision of said constitution for calling special meetings of the national council at division 1, chapter 7, of the national laws, appendix, page 29, sections 1 to 2, namely, by the national councillor, with the concurrence of one other member of the board of officers, or upon the request of ten State councils duly communicated to him. And it is also admitted that under the old laws (Exhibit No. 6, page 52) there was a provision relating to calling a special meeting of the national council at the written request of twenty-five members of the national council, who shall be at least from seven different States.

It is further agreed that no *per capita* tax was due from the defendant council on September 14, 1899, the date of the suspension of its charter, or prior to October 15, 1899.

A. A. BIRNEY,
 GEO. FRANCIS WILLIAMS,
 A. W. SHUNK, *For Compl't.*
 J. J. DARLINGTON,
For Defendants.

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Memorandum.

Published proceedings of the State Council of the District of Columbia, Jr. O. U. A. M., fifth semi-annual session, February 12, 1900; seventh annual session, August 13 and 14, 1900, referred to in agreement filed October 19, 1904, is transmitted herewith.

Agreement and Exhibits A, B, C, & D.

Filed October 19, 1904.

In the Supreme Court of the District of Columbia.

NATIONAL COUNCIL, J. O. U. A. M.,	} In Equity. No. 21890.
vs.	
STATE COUNCIL, SAME ORDER.	

It is agreed between counsel that the annexed paper marked Exhibit A, Oct. 19, 1904, is a true copy of the charter granted by complainant at its convention of 1894 to the State council of the District of Columbia, and that the annexed papers marked Exhibits B, C, and D, October 19, 1904, were introduced in evidence or referred to in evidence and may be filed subject to all objections as to relevancy or materiality or competency.

GEO. FRANCIS WILLIAMS,
For Complainant.
 J. J. DARLINGTON,
For Defendant.

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EXHIBIT A.

Filed October 19, 1904.

Junior Order of United American Mechanics.

Know ye, that we, the National Council of the United States, do grant this charter to H. F. Steele, B. M. Martin, Geo. Bristow, W. H. R. Martin, J. S. Espey, H. W. Pote, W. D. Kemps, H. T. Adams, F. I. Gregory, W. F. Coggins, A. E. Cornell, J. W. Milstead, M. P. Imlay, W. W. Hall, Jr., W. H. McGinniss, O. R. Reichard, W. T. Oneal, A. T. Tucker, I. K. Moore, C. L. Tucker, F. Burrows, R. E. Lee Scott, F. L. Neikirk, J. D. Schofield, E. S. Walmer, T. M. Bowling, P. F. Robinson, Geo. Todd, T. S. Sergeant, J. M. Baker, W. T. Goodall, C. F. Blundon, J. C. Boyd, C. A. Beatty, J. H. Gregory, J. H. Weast, J. D. Avery, E. A. Reid, W. L. Godfrey, H. Kronheimer, A. Donaldson, J. R. Thompson, T. P. Moore, B. F. Nemon, C. H. Mitchell, C. F.

Mornse, E. W. Goodrick, E. C. Wagner, J. E. Crum, B. T. Henry, C. V. McGill, G. E. Howard, J. Harry Cunningham, and their successors, legally and duly elected, to constitute a State council of the District of Columbia, and being duly formed is hereby authorized to grant charters to subordinate councils of the Junior Order of United American Mechanics in said State, according to the regulations and charges adopted by the national council, to enact by-laws for the government of their council and a constitution for the government of the subordinate councils under their jurisdiction, provided always that the State council do act according to the order, and in obedience to the national council, and in consideration of the faithful performance of this contract, the national council will support the State council of the District of Columbia in the performance of their duties and in the honors and privileges of the order.

In testimony whereof the officers of the national council have hereunto set their hands and affixed the seal, this 25th day of June, 1895.

J. G. A. RICHTER,
National Councilor.

EDW. S. DEEMER,
N. Secretary.

[SEAL.]

Seal is cut out from a piece of paper & pasted on.

EXHIBIT B.

Filed October 19, 1904.

* * * * *

397 EXHIBIT C.

Filed October 19, 1904.

National Council, Junior Order American Mechanics, Office of the National Councilor.

SEATTLE, WASH., *December 5, 1900.*

To the officers and members of the subordinate councils of District of Columbia, Jr. O. U. A. M.

DEAR SIR AND BROTHERS: You have doubtless learned by this date of the unanimous decision of the supreme court of Pennsylvania, that the laws of the national council adopted at Minneapolis, Minnesota, have been declared valid as of the time of their adoption, June 1899, and that the decree of Judge Weiss in the Derry council case has been reversed, the injunction dissolved, and the bill dismissed at the cost of Derry council.

It follows, therefore, that the national council tax must be paid by the subordinate councils, although not enacted or provided for by the State council.

In accordance with the law, the State council of District of Columbia having refused to pay or provide for the payment of said tax, I therefore by direction of the board of officers of the national council, make formal demand of the subordinate councils of District of Columbia for the payment of the amounts due at this date, as follows:

398 Seven and one-half cents *per capita* on the membership of June 30, 1899; seven and one-half cents *per capita* on the membership of December 31, 1899; and seven and one-half cents *per capita* on the membership of June 30, 1900; also, for the orphans' home, five cents *per capita* on the membership of June 30, 1899; five cents *per capita* on the membership of December 31, 1899; five cents on the membership of June 30, 1900; and a special tax of seven and one-half cents *per capita* for the orphans' home, on the membership of June 30, 1900. This makes a total of forty-five cents *per capita* due to the national council and the orphans' home, upon all subordinate councils which have not heretofore paid in full said tax, which is to be paid by December 15, 1900, (the usual time being on or before April 15th or October 15th of each year), upon the receipt of which the password of the current term will be forwarded, as required by law.

Failure to pay this tax will render the charter of the delinquent subordinate council forfeitable, and the property and funds in its hands and possession revertable to the national council.

The reports and money should be sent only to Edward S. Deemer, national secretary, 727 Stephen Girard building, Philadelphia, Pa.

Allowance can be made by any council which has paid part of this tax.

Fraternally yours,

CHARLES F. REEVES,
National Councilor. [SEAL.]

Attest:

EDW. S. DEEMER,
[SEAL.] National Secretary.

399 & 400 Make your remittance as follows:

* June 30, 1899 membership.....	due Oct. 15, 12½=	
* Dec. 31, 1899	" April 15, 12½=	\$31.50
* June 30, 1900	" Oct. 15, 12½=	
† June 30, 1900	" Oct. 15, 7½=	

* National council tax, 7½, orphans' home, 5.

† Special orphans' home tax, 7½.

* * * * *

401

Opinion of the Court.

Filed Nov. 5, 1904.

In the Supreme Court of the District of Columbia.

NATIONAL COUNCIL, JUNIOR ORDER U. A. M.,	}	No. 21890. Equity.
Complainant,		
vs.		
THE STATE COUNCIL OF THE DISTRICT OF Co-	}	
lumbia <i>et als.</i> , Respondents.		

WRIGHT, J.:

The Junior Order of United American Mechanics is a fraternal beneficial order; the supreme general authority called "national council" heretofore chartered the "State Council of the District of Columbia" to be the supreme local authority.

The suit at bar is in order to require a surrender of this charter and to enjoin the State council from the further exercise of functions under the charter, the plaintiff claiming that it has been lawfully revoked.

The facts conceded by the parties are, so far as material, thus:

402 Both the national and State councils are representative bodies, the general rules and operations of the order being regulated by the national council through a national constitution and a code of national laws; the local, by a State constitution and State laws.

The national constitution provided for an annual session of the national council, which in 1899 was held at Minneapolis, Minn. At this session the National council levied against the members of the order a *per capita* tax, which, except for the amount of it, was usual; and undertook to adopt a new national constitution and new national laws; these created amongst other features, a plan for insuring the lives of members, and of persons not members of the order; this had not before been contemplated nor embraced within the purposes of the order.

The defendant State council finding itself of opinion that the provisions creating an insurance branch had not been legally adopted, and being further of the opinion that the adoption of neither the new national constitution nor the new national laws had been legally had, announced by resolution that it would pay no *per capita* tax until these grievances were righted by the national council.

The executive head of the order, styled "the national councilor" thereupon suspended the defendant council and preferred against it before the national judiciary, a tribunal created by the new constitution, charges as follows:

403 "To the National Judiciary:

The petition of Charles Reimer respectfully presents,"

'That the State council, District of Columbia, Jr. O. U. A. M., at its session in the city of Washington, D. C., on the 14th day of August, 1899, adopted the following recommendations of its secretary, Wm. L. Boyden, and resolution:'

'(See page 14, State council secretary's report and copy of letter from Wm. L. Boyden, S. C. sec'y, to Edward S. Deemer, N. sec'y, dated Washington, D. C., August 21, 1899, under the seal of the State council of the D. C.)'

'That said action of the State council has been officially promulgated and published to the order at large.'

'That by reason of said foregoing action of said State council petitioner charges said State council with insubordination, rebellion, inciting rebellion, attempting to disrupt and destroy the order, and violation of obligation and laws of the order.'

CHAS. REIMER,
National Councilor."

[SEAL.]

* * * * *

"The national councilor, Charles Reimer, herewith files supplementary petition in above case as follows:

1st. That the State council of the District of Columbia, in session at Washington, D. C., on the 14th day of August, 1899, adopted the recommendations and resolutions, copies of which are herewith attached and made part hereof marked 'Exhibit A,' as certified by the letter hereto attached and made part hereof marked 'Exhibit B.'

2d. That by reason of the foregoing action the State council willfully violated the following laws of the order, viz: National laws division 1, chapter 21, section 1, and the enactment of the national council at its recent session at Minneapolis, Minn., imposing the national council *per capita* tax of fifteen cents per member.

3d. That the said foregoing action is an attempted nullification by said State council of the authority of the national council and its officers to levy and collect said tax, in violation of the laws of the order, and its obligations.

4th. That by reason of the said foregoing action, other councils and State councils of the order and the members thereof are incited to commit the same or similar offenses against the order, and is thereby guilty of insubordination against the laws and lawful authorities of the order.

5th. Petitioner therefore prays for such relief as by this court is deemed just and lawful.

CHAS. REIMER."

* * * * *

404 "Resolved, that in view of the above-mentioned grievances, this State council hereby calls for a special session of the national council to right them, and that until the same is done,
28—1518A

it respectfully but firmly refuses to pay any *per capita* to said national council.

Resolved, further, that this State council hereby calls upon its sister jurisdictions to take the same action."

Answer was filed denying guilt of any of the offenses charged, a trial before the national judiciary was had, an opinion announced Nov. 23, 1899, but no decree entered until January 27th, 1900, and then as follows:

" *Decree.*

On to-wit, the 20th day of November, A. D. 1899, the case of the National Council, Jr. O. U. A. M. by Chas. Reimer, N. C., vs. The State Council of the District of Columbia, Jr. O. U. A. M., having been tried before the national judiciary in the city of Washington, D. C., it was on the 23d day of November, A. D. 1899 ordered by the national judiciary—

That the State council secretary, the State councilor, the State council finance committee, the State council treasurer, and any other committee or board of the State council of the District of Columbia, the functions of whose office may require participation in the matter of the payment by the State council of the *per capita* tax due the national council to the national secretary, shall on or before the 15th day of January, A. D. 1900, execute the proper warrant and pay over to the national secretary the amount of *per capita* tax due the said national council on the 15th day of October, 1899, and now unpaid * * *.

And it being further ordered that in the event of the failure or refusal of the State council officers of the State council of the District of Columbia or any committee or board of the said State council to abide by or perform the orders hereinabove set forth, then and in that event the charter of the said State council of the District of Columbia granted to the said State council by the national council be revoked.

Now it appearing by certificate from the national secretary
405 Edward S. Deemer, that the State council officers of the State council of the District of Columbia or any of them have wholly failed to pay the said *per capita* tax on or before the said 15th day of January, A. D. 1900.

Therefore it is by the national judiciary ordered that the charter of the State council of the District of Columbia be and the same is hereby revoked and the late officers of the said State council or such of them as may be in possession thereof are hereby directed to deliver to the national secretary, the charter, with all rituals, books, papers, moneys, property or effects of every description belonging to the said State council." * * *

The defendant council refused to surrender its charter or otherwise to accord obedience to this decree.

Such matters of fact as are in dispute between the parties, will, so far as material to our opinion, be pointed out in its expression.

The relief sought by the complainant is not to be granted unless the charter of the defendant council has been lawfully revoked; and this involves the validity of the so-called decree of the national judiciary.

This decree is assailed upon two grounds:

1. That the new constitution creating the judiciary was not legally adopted, and that therefore the proceeding was *coram non judice*.

2. That in any event the decree is void for want of power to render it in the particular case.

As to the second the new constitution provides:

"The following powers are reserved to the national council. * * *

"To grant charters to State councils and to provide by law for the * * * revocation * * * of such charters. (Art. 7, sec. 15-11.)

406 Art. 19 creates a "national judiciary."

Art. 20, sec. 10: "The warrant or charter of the State council may be revoked only by the national judiciary, the procedure thereto to be regulated by law."

If art. 7, sec. 15-11 stood alone there might arise a question whether the revocation of charters were not for the national council through enactment of law; but this meaning runs counter to art. 20, sec. 16, which vests the power in the judiciary; both provisions are to be given effect, and to accomplish this a meaning for the former must be sought, which renders each in harmony with the other.

The language of art. 7, sec. 15-11 is susceptible of two senses.

1st. That the national council shall have power to revoke charters by direct legislative enactment.

2nd. That the national council shall have power to provide only a method of procedure for the revocation of charters.

The first contemplates the intervention of no other tribunal.

The second contemplates another tribunal. Article 20, sec. 16 supplies another tribunal and directly vests in it the power to revoke; therefore the second sense is appropriate.

The national council has sufficiently provided upon the point of procedure, by committing to the national judiciary power to "declare the mode of framing and filing proceedings and pleadings, 407 of taking and obtaining testimony, of entering and enrolling decrees and generally to regulate the whole practice before it. * * *

Ch. 6, sec. 1; Gen. Laws.

The national judiciary had adopted rules of practice and procedure, amongst them as follows:

Rule 2:—"The pleading shall consist of plaintiff's petition and defendant's answer thereto. Amendments may be made. * * *

"The petition shall embrace:

"First. A clear statement of fact.

"Second. The plain setting out of the law relied upon and,

"Third: A prayer for the relief sought. * * *

If this decree of revocation is valid, its effect is not to be gainsayed by the court here; for if valid it is conclusive between these parties, because they have agreed to that in the laws of their order (div. 3, ch. 3, sec. 1).

In this regard "invalidity" is not synonymous with "erroneous;" "irregular;" nor is a decree to be taken as invalid even though it be conceded that the tribunal which rendered it were a creature of poor judgment and had made a mistake; this possibility is involved in the existence of a tribunal and is a risk taken by all who submit themselves to come under the tribunal; can be corrected, if at all, only by appeal to a higher if the favor of appeal is provided; if not, then by direct recourse to the tribunal itself; there is no other remedy.

408 But if the tribunal was without jurisdiction of the subject matter of the suit, or if in a cause before it, it had not yet acquired authority to exercise the functions of a tribunal respecting that which it ultimately announced for the case, then such a pronunciamiento is not the product of the tribunal, but of the mere individuals who happen to have given it enunciation; it is no decree of a forum, but the bare *ipse dixit* of individuals who happen to sit in the place set apart for the forum; is void and of no consequence, as distinguished from "obligatory although wrong."

In order to know whether the decree of the national judiciary is void resort must be had to two questions:

1st. Was the national judiciary vested with jurisdiction of, that is, power to decide upon the subject matter of the revocation of charters? If yea, then

2nd. Did the very case which pended before the national judiciary bring before it for the exercise of its power thereupon, the subject of the revocation of the defendant's charter?

The first question may be answered in the affirmative.

But although the national judiciary was clothed with general jurisdiction over the subject of the revocation of charters of State councils, yet whether it had acquired jurisdiction to revoke this particular charter of this particular council in this particular case is a different question; it depends primarily upon the case brought forward by the petition; for the authority of the tribunal

409 to decree in that case was limited to such relief as was appropriate to flow from the facts charged; secondly, if the averments of this petition were such as to justify revocation if they were true, then a judicial ascertainment of their truth was essential to revocation; revocation was appropriate to follow a judicial ascertainment of cause for revocation, but not to precede it.

Although neither the recommendations nor resolution which moved the petitioner appear in the original petition, yet it reveals with a degree of certainty, which is no more to be gainsayed, one proposition; that the petitioner was undertaking to arraign the defendant for the perpetration of outrages against the order, and to

charge it with guilt of offenses; that he was not undertaking to call upon the national judiciary to render a judgment for money. The original petition being in other respects indefinite, the "supplementary petition" was filed; from this it is as well manifest that the petitioner was endeavoring to render the defendant liable for guilt, not money; that he sought an adjudication of guilt of offenses, and not an adjudication for the payment of debts.

Here was a case of which the subject matter concerned only the guilt of the defendant respecting offenses; such was the only issue presented to the national judiciary for it to try and to decide; but

410 upon that question it has not as yet seen fit to favor the parties with its opinion; there has been rendered no adjudication of guilt, and none of innocence; upon the point of guilt the result of the trial remains as yet unknown and undeclared. We have been pointed to, and have found nothing in the constitution or laws which justifies the expulsion of a State council for insubordination, or for any other of the matters set in the petitions; this discovery seems to have been evolved at a time between the filing of the petition and the rendition of the decree, and the attack varied accordingly.

The decree which was undertaken to be rendered concerned not the question of the defendant's guilt, but undertook without any finding upon the issue, to direct that the defendant should pay upon January 20th, 1900, a sum of money which the national laws required to be paid upon October 15th, 1899. This may be a re-enactment of the general laws in an amended form, or it may not; whether or not it is, is of no consequence, for while the national judiciary may have been vested with power to order payment of the *per capita* tax in a case brought to recover the tax, yet this was no such case; the very bill at bar avers that the petitions charged and that the trial was for "insubordination and rebellion;" and so it was conceded at the hearing before us.

Here at bar, reliance is now placed upon sec. 2, ch. 3, div. 3 Gen'l Laws:

"Should any party to a decree or judgment of the national judiciary fail or refuse to abide by, or perform the same, if a member, he shall be expelled from the order. If a State council or a council, its charter shall be thereby revoked, and the national councilor or State councilor, or councilor, having notice thereof, shall immediately proclaim the same."

411 In other words, it is discovered that the defendant was charged with nothing for which the national judiciary could revoke its charter, yet it is commanded to do something in the case, and the charter revoked for failure to obey.

We cannot escape the conclusion that the so-called decree was no decree at all; for it in no way responded to the case made by the petitions; the order was no order carrying the authority of a tribunal, for the power of the tribunal to make the particular order, had not been summoned into activity by the case brought; the order

in no way responded to the issues; the so-called decree is therefore void.

Spours vs. Cone 44 O. S.

Voidness is equivalent to non-existence; the thing is nothing; affects not any one, accomplishes not anything; therefore this order is not conclusive upon the defendant, nor upon any question which the defendant urges here; is no decree at all, and accomplished no revocation of the charter. While the laws of the order provide that revocation of charter shall follow a State council's disobedience to a decree of the national judiciary, yet this contemplates a valid decree of the tribunal; not an arbitrary dictum of individuals who happen to hold the situation of its judges.

Refusal to accord obedience to this order, is not disobedience of a decree for there was no "decree;" the order of revocation is equally void, for the want of a decree upon which to predicate it.

412 The proceedings of the national judiciary thus turning out forceless and its order of revocation nugatory, resort must be had to some other theory of procedure in order to justify the relief sought; the laws of the order supply none and there is none to consider unless it be thought that on general principles of equity jurisprudence the court will decree the delivery of the charter and restrain the defendant from the exercise of the functions of a council on account of disobedience to the supreme law of the order in its refusal to pay the *per capita* tax.

If this *per capita* tax involved the exercise upon the part of the national council of a power prohibited by the constitution, then, inasmuch as the tax was levied collectively and not specifically, the defendant was not obliged to its payment so long as the requirements of the levy were such as rendered impossible a segregation of the unlawful and payment of the other.

The levy was fifteen cents "for general purposes," and ten cents for the use of the trustees of the orphans home.

The only source of substantial revenue to the national council is the *per capita* tax; so that any considerable appropriation of funds by the national council would exhaust *pro tanto* the proceeds of the *per capita* tax.

Before the *per capita* tax became due the national council enacted "that a sum not exceeding \$5000 be appropriated for the use of the board of control of the beneficiary degree, (insurance branch) said money to be paid to them in such sums as their needs may require, and a return of the money to be made within one year from this date."

413 Already had been recommended and adopted "that the beneficiary degree be managed and controlled by the national council, through duly elected officers to be known and designated as the board of control," the national council had elected the board, and provided a code of rules for its regulation.

Under the old constitution the objects of the order excluded an

insurance branch and a proposal to incorporate it had met defeat as often as submitted to a vote of the members of the order; the old constitution provided:

ART. 2, SEC. 2. "The objects of this order shall not be altered unless proposed in writing, and if adopted, the alteration shall be submitted to the members of the order for a vote thereon, and shall be of no effect unless approved by a majority vote."

At the Philadelphia session, while the old constitution was in full effect, and before the adoption of a new had been undertaken, the national council undertook to change the objects of the order by incorporating amongst other things, "an insurance branch;" this proposed change was not submitted to the members of the order and they have been without an opportunity to vote thereupon; the change was therefore not accomplished, and a disposition by the national council of the funds of the order to the establishment of the insurance branch was therefore an attempted exercise of a power prohibited by the constitution; the appropriation to this purpose of any portion of the *per capita* tax; or funds derived from *per capita* tax was not only illegal, but out of its power.

414 While the discretion of the national council in laying a tax for lawful purposes, and, we think, the reasonableness of its amount cannot be interfered with by the court (and this for the reason that their law makes the council, not the court judge of the question) yet the power to tax for, or devote the proceeds of a tax to a particular purpose, is always for the law of the land, to say whether within the power granted by the law of the order.

The national council was without power to tax for, or to appropriate any funds to the purposes of an insurance branch; and inasmuch as this had been undertaken, and the money had of necessity to come either from *per capita* taxes paid or the *per capita* tax to be paid, and no one can tell which, the defendant in refusing to contribute to the fund from which the illegal expenditure was to be made does not appear to be so deep in disobedience of the law of the order as that on that account the court should aid in its destruction.

It is urged that if the change in the objects of the order were not validly accomplished, that the change is forceless, is nothing, and ought not affect the case; it would be more accurate to say, "ought not affect the finances of the order;" it is because the change does this that the attempted alteration is material to the situation.

Some several other questions were elaborately argued, amongst them the validity of the new national constitution and general laws; but according to our judgment of the case, it must in any
415 event go along with the foregoing views, and the determination of other questions is unnecessary.

The order of the national judiciary was void for want of power to render it in the particular case, the order of revocation was void because no decree had been violated, and the bill must be dismissed.

Filed Nov. 14, 1904.

In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL, JR. O. U. A. M.,	}	No. 21890. Equity.
<i>vs.</i>		
THE STATE COUNCIL, DISTRICT OF COLUMBIA, Jr. O. U. A. M., <i>et al.</i>		

This cause coming on to be heard upon the pleadings and the evidence, and having been argued by the solicitors for the parties, respectively, and duly considered, it is thereupon by the court this 14th day of November, A. D. 1904, adjudged, ordered and decreed that the complainant's bill be, and the same hereby is, dismissed with costs, and that the defendants have execution for their said cost as at law.

WRIGHT, *Justice.*

And from the foregoing decree, at the time of the signing thereof, the complainant, by its solicitors, in open court, prays an appeal to the Court of Appeals of the District of Columbia, which appeal is allowed and it is this day ordered that the amount of the appeal bond for costs be and the same is hereby fixed at one hundred dollars, and that the complainant may at its election deposit in lieu of such bond the sum of fifty dollars in money with the clerk.

WRIGHT, *Justice.*

417-428

Memorandum.

NOVEMBER 28, 1904.

Appeal bond filed.

Order Extending Time for Filing Transcript of Record.

Filed Jan 6, 1905.

In the Supreme Court of the District of Columbia.

NATIONAL COUNCIL, JUNIOR ORDER OF United American Mechanics,	}	No. 21890. In Equity.
<i>vs.</i>		
STATE COUNCIL OF THE DISTRICT OF Co- lumbia, Junior Order United American Mechanics.		

On motion of the complainant by its solicitors, the defendants by their solicitor consenting, it is this 6th day of January, 1905, ordered

that the time within which the transcript of the record shall be filed in the Court of Appeals of this District be and it is hereby extended for thirty days from the expiration of the time allowed by the rules of that court special and sufficient cause having been shown to the satisfaction of this court.

THOS. H. ANDERSON, *Justice*.

I consent:

J. J. DARLINGTON,
Sol. for Defendants.

* * * * *

429 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss:
District of Columbia,

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 428, inclusive, and the exhibits transmitted herewith, being Complainant's Exhibit C; Complainant's Exhibit D; Complainant's Exhibit E; Complainant's Exhibit Y; Exhibit Identification May 31, 1901, No. 1; Exhibit Identification May 31, 1901, No. 2; Exhibit Identification May 31, 1901, No. 3; Exhibit Identification May 31, 1901, No. 4; Exhibit Identification May 31, 1901, No. 5; Complainant's Exhibit No. 5; Complainant's Exhibit No. 6, and the official proceedings of the State Council of the District of Columbia, Jr. O. U. A. M., filed under stipulation, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 21,890, in equity, wherein The National Council of the Junior Order of United American Mechanics of the United States of North America, a body corporate, is complainant, and The State Council of the District of Columbia, Junior Order of United American Mechanics, a body corporate, *et al.* are defendants, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 14th day of February, A. D. 1905.

[Seal Supreme Court of the District of Columbia.]

J. R. YOUNG, *Clerk*,
By W. E. WILLIAMS, *Ass't Clerk*.

430 In the Supreme Court of the District of Columbia.

THE NATIONAL COUNCIL OF THE JR. O. of U. A. M. vs.	} No. 21890. In Equity. No. 1518. Appeals.
THE STATE COUNCIL OF THE DISTRICT of Columbia, Jr. O. of U. A. M., <i>et al.</i>	

It is stipulated by and between counsel for appellant and appellee, respectively, in the above entitled cause, that the time within which counsel for appellant shall or may designate for printing parts of the record on appeal be and it is hereby extended by consent for thirty (30) days from this day, and further that the counsel for appellee shall have (15) fifteen days after service of copy of such designation for printing as may be filed herein by appellant's counsel, within which to designate in writing such additional parts of the record for printing, if any, as he may deem material.

Witness their hands this twenty-first day of February, 1905.

A. A. BIRNEY,
GEO. FRANCIS WILLIAMS,
Counsel for Appellant.
J. J. DARLINGTON,
Counsel for Appellee.

(Indorsed :) 21890 eq. Appeals 1518. National Council, Jr. O. U. A. M., vs. State Council, etc. Stipulation of counsel as to extension of time for designating parts of the record for printing. Court of Appeals, District of Columbia. Filed Feb. 21, 1905. Henry W. Hodges, clerk.

431 In the Court of Appeals of the District of Columbia.

NATIONAL COUNCIL, JUNIOR ORDER UNITED AMERICAN Mechanics, Appellants, vs.	} No. 1518.
STATE COUNCIL OF DISTRICT OF COLUMBIA OF SAME Order <i>et al.</i> , Appellees.	

The clerk in printing the record in the above entitled cause will please omit the following designated portions thereof, the printing of which is deemed by appellant unnecessary, to wit:—

(The reference to pages are to the transcript of record on file in the Court of Appeals.)

Page 23.

All of page 68 except first eleven (11) lines.

Page 69 to 81 both inclusive.

First twelve (12) lines of page 82.

All of page 91 except first five (5) lines.

Pages 92 to 98 both inclusive.

First line top of page 99.

Pages 102 to 107 both inclusive.

Pages 293 to 299 both inclusive.

Pages 300 except memo. as to Exhibit No. 2.

Page 301.

Page 303, (being all of Complainant's Exhibit No. 8).

Pages 374 to 377 both inclusive.

The last twelve (12) lines on page 393.

Pages 394 to 399 both inclusive.

All of printed "official statement," marked Exhibit D at page 400 of record.

Pages 418 to 428 both inclusive.

432 Also omit the following exhibits, which are in the form of printed books or pamphlets, it having been agreed between counsel that the same may be used and referred to at the hearing, they being already in convenient form, namely:—

Complainant's Exhibit C.

" " D

" " E

" " Y

Complainant's Identification Exhibits May 31, 1901, Nos. 1 to 5 both inclusive.

Complainant's Exhibit No. 5

" " " 6

Printed pamphlet, "official proceedings State council, D. C., filed (with agreement of counsel as to issues) October 19, 1904.

A. A. BIRNEY,

Per W.

GEO. FRANCIS WILLIAMS,

Attorneys for Appellants.

(Indorsed :) No. 1518. National Council Jr. O. U. A. M. vs. State Council D. C. same order. Appellant's designation of parts of record to be omitted in printing. Court of Appeals, District of Columbia. Filed March 23, 1905. Henry W. Hodges.

433 In the Court of Appeals of the District of Columbia.

NATIONAL COUNCIL, JUNIOR ORDER UNITED AMERICAN Mechanics,	} No. 1518.
vs.	
STATE COUNCIL OF DISTRICT OF COLUMBIA OF SAME Order <i>et al.</i>	

Designation of Parts of Record to be Printed.

The appellee concurs in designation for omission from the printed record, the following:

Page 23.

All of page 68, except first eleven lines.

The first ten lines of page 69.

Pages 299, 300, except mem. as to Exhibit No. 2.

Page 301.

Page 303, Exhibit No. 8.

Pages 374 to 377.

Last 12 lines on page 393.

Pages 394 to 396.

All of Exhibit D, p. 400.

Pages 418 to 428.

Complainant's Exhibits C, D, E, Y, Identification Exhibits 1 to 5, Complainant's Exhibits Nos. 5 & 6, and "official proceedings State council, D. C." filed Oct. 19, 1904.

The other portions of the transcript of the record designated for omission by appellant are designated by the appellee to be printed.

J. J. DARLINGTON,
For Appellee.

March 28, 1905.

(Indorsed :) No. 1518. National Council, J. O. U. A. M., etc., appellant, vs. State Council &c., J. O. U. A. M. Appellees designation of parts of record to be omitted in printing. Court of Appeals, District of Columbia. Filed Mar. 29, 1905. Henry W. Hodges, clerk.

Endorsed on cover: District of Columbia supreme court. No. 1518. The National Council of the Junior Order of United American Mechanics of the United States of North America, a body corporate, appellant, vs. The State Council of the District of Columbia, Junior Order of United American Mechanics, a body corporate, *et al.* Court of Appeals, District of Columbia. Filed Feb. 14, 1905. Henry W. Hodges, clerk.

